



**CITY COUNCIL WORK SESSION  
CITY COUNCIL CHAMBER CONFERENCE ROOM  
MONDAY, MARCH 4, 2013  
5:30 to 7:00 PM**

1. Call to Order
2. Work session on Parking Structures and Decks feasibility study with Kimley-Horn and Associates and MMW Architects
3. Public Comment
4. Adjourn



# Parking Garage Feasibility & Concept Design Study

## PROJECT MEETING # 4 – City Council Work Session

**Date and Time:** Monday, March 4, 2013 5:30 PM – 7:00 PM

**Place:** City Council Conference Room, City Hall

### AGENDA:

#### COUNCIL WORKSESSION

**Work Session Goals:** Present progress to date on parking feasibility study and to present refined parking garage design concepts.

##### A. Introduction

- Review of project goals

##### B. Project Tasks - Status Update

- Geo-Tech Summary:
- Traffic Study Summary:

##### C. Review of Specific Issues

- Smaller Communities with Parking Garages
- Parking Design for Cold Weather Climates
- Facility Maintenance Cost Information and Recommended Maintenance Practices
  - Option 1: the 2-Story City Hall along 2nd Street
  - Option 2: the 1-Story City Hall along Baker Avenue and 2nd Street
- Constructability

##### D. Garage Design Refinements – Kimley-Horn /MMW

- Review the two primary garage/city hall options
  - Option 1: the 2-Story City Hall along 2nd Street
  - Option 2: the 1-Story City Hall along Baker Avenue and 2nd Street
- Design Refinements based on feedback from prior meeting
  - Structure Design Options
  - City Hall Council Chambers

Discussion



# PRELIMINARY GEOTECHNICAL INVESTIGATION

## PROPOSED PARKING STRUCTURE

### WHITEFISH, MONTANA

January, 2013



**CLIENT:** Kimley-Horn and Associates, Inc.  
7740 North 16<sup>th</sup> Street, Suite 300  
Phoenix, AZ 85020

**OWNER:** City of Whitefish  
418 East 2<sup>nd</sup> Street  
Whitefish, MT 59937-0158

**ENGINEER:** Thomas, Dean, & Hoskins, Inc.  
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Kalispell, MT 59401  
Engineer: Craig R. Nadeau, P.E. (406) 761-3010  
Contact: Doug Peppmeier, P.E. (406) 751-5246



Job No. K12-017-001

Great Falls • Bozeman • Kalispell • Shelby, Montana  
Spokane, Washington • Lewiston, Idaho  
Watford City, North Dakota

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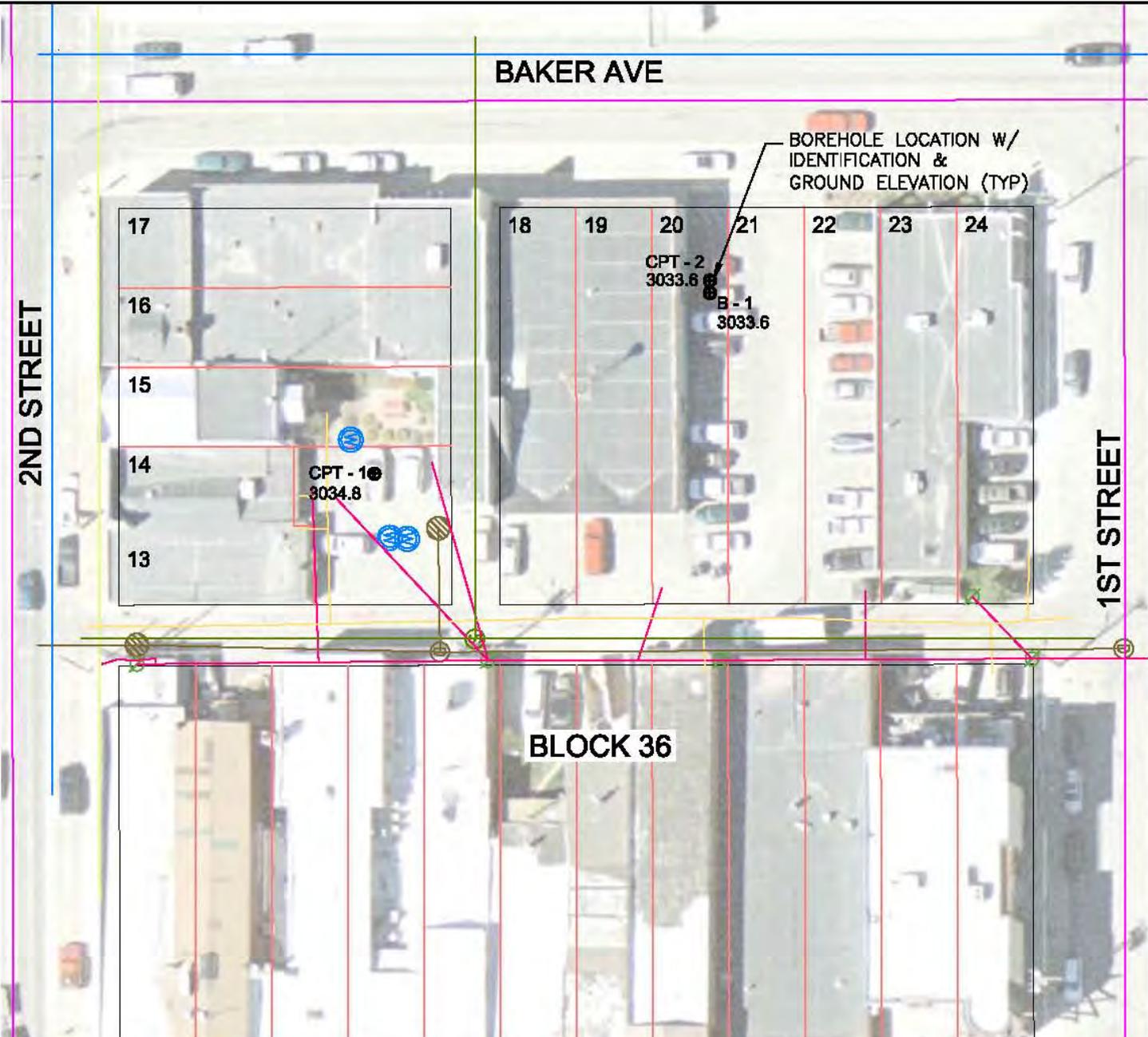
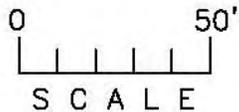
**PRELIMINARY GEOTECHNICAL INVESTIGATION  
PROPOSED PARKING STRUCTURE  
WHITEFISH, MONTANA**

**1.0 EXECUTIVE SUMMARY**

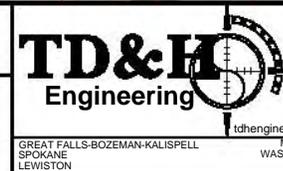
The preliminary geotechnical site assessment for the proposed parking structure to be on the northwest corner of the intersection between East 2<sup>nd</sup> Street (US 93) and Baker Avenue in Whitefish, Montana, encountered relatively thin surficial granular soils underlain by native lean clay which extends to a depth of at least 53.0 feet based on the single boring performed. The native lean clay is very soft, normally-consolidated and normally consolidated below the ground water elevation of approximately 7.5 feet. Based on the cone penetration testing (CPT) performed, the native clay soil likely extends to a depth of at least 110 feet and experiences a slight increase in stiffness below a depth of 90 feet. The site falls under seismic Site Class E based on the soil conditions encountered. Due to the plastic nature of the lean clay, the risk of seismally-induced liquefaction is improbable; however, the soil may be susceptible to increased settlement during a seismic event and warrants further investigation during the schematic design phase of the project. The primary geotechnical concerns regarding the proposed parking structure project are the relatively shallow ground water elevation, the very soft underlying alluvium, the magnitude of anticipated foundation loads, and the anticipated depth required to reach a suitable bearing stratum. The site is not suitable for conventional shallow spread footing foundation and the risk of excessive foundation settlements for a large mat foundation system is high. Thus, the structure must be supported on a deep foundation system utilizing either drilled auger-cast pile or driven steel displacement piles. Conventional driven piles and auger-cast piles are primarily end-bearing systems which derive only a minor portion of the overall capacity through skin friction. Alternatively, fluted or tapered piles may be an option and are considered friction piles due to the relatively small diameter of the tip. Additional investigation and analysis is needed to evaluate the feasibility of using and expected performance of friction piles. Based on our previous work in the area, conventional end-bearing pile systems are anticipated to terminate within dense gravel strata located at depths ranging from 120 to 150 feet. Additional investigation is required to delineate a suitable bearing stratum and provide more accurate design parameters for the necessary foundation system. The preliminary design information provided in this report are intended to give sufficient information such that a reasonable construction cost estimate can be assembled; however, additional exploration is required to validate the assumptions made in our analysis and to refine our recommendations based on the actual subsurface bearing conditions present on site.

# LEGEND

- RIGHT OF WAY
- LOT LINE
- WATER MAIN
- SANITARY SEWER MAIN
- STORM DRAIN
- AERIAL POWER LINE
- GAS MAIN
- ⊙ MONITOR WELL
- ⊙ SAN. SEWER MANHOLE
- ⊙ STORM DRAIN MANHOLE
- ⊙ DRAINAGE SUMP
- ⊙ POWER POLE
- ⊙ GUY WIRE



**WHITEFISH PARKING STRUCTURE**  
WHITEFISH, MONTANA



DRAWN BY:	DJK
DESIGNED BY:	
QUALITY CHECK:	
DATE:	12.20.2012
JOB NO.	K12-017
CAD NO.	FIG 1

**FIGURE 1**  
  
**1**

**GEOTECHNICAL DRILLING LOCATION DIAGRAM**  
**LOTS 14 & 20 , BLOCK 36, WHITEFISH ORIGINAL TOWNSITE, SEC 36, T31N, R22W, PMM**

# Parking Structures & Successful Retail Streets

January 30, 2013

CRANDALL ARAMBULA  
www.ca-city.com



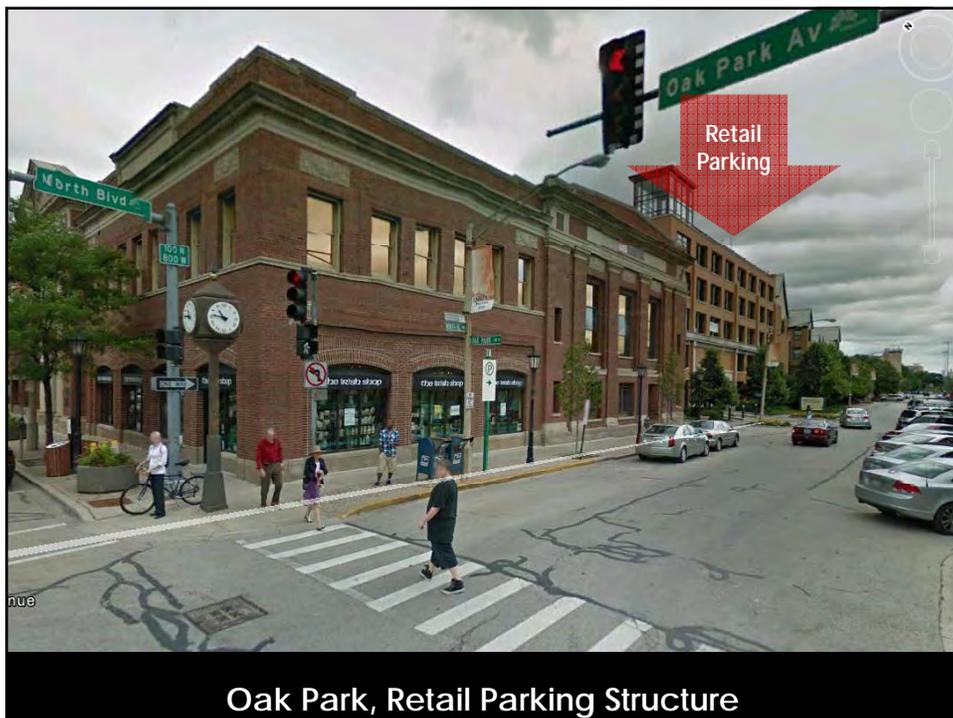


Lincoln, Nebraska, Historic Haymarket District



Lincoln, Haymarket, Retail Parking Structure



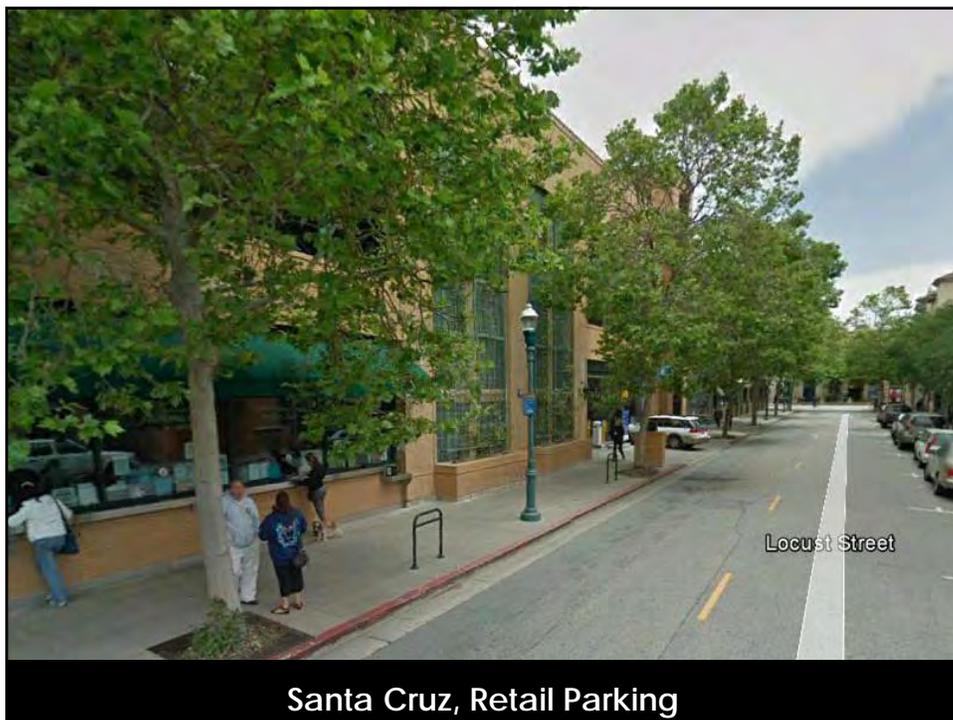




Santa Cruz, California

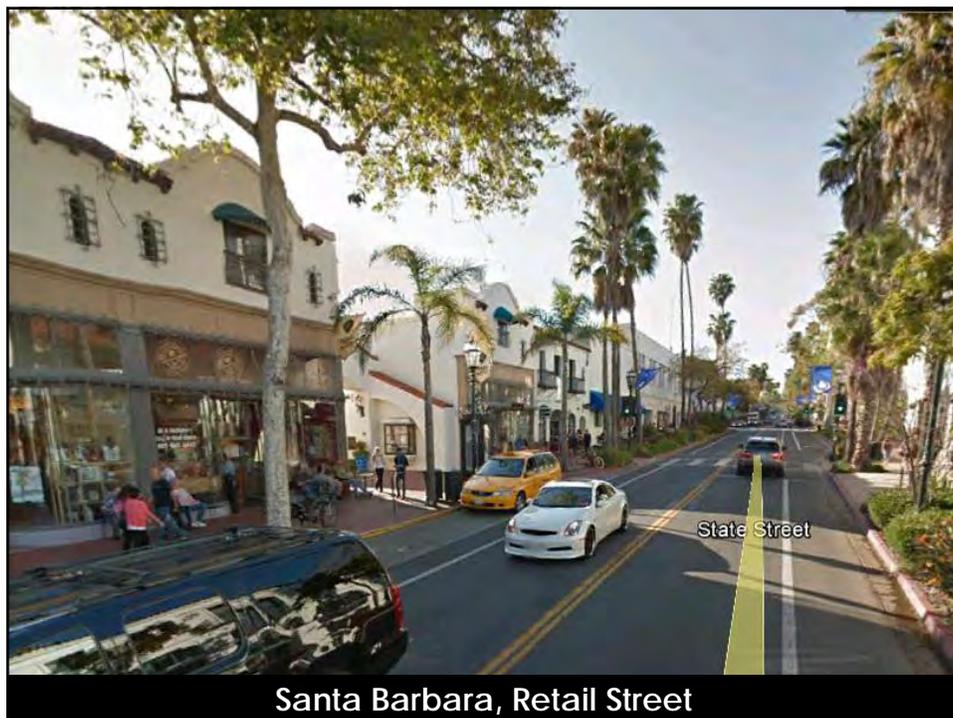


Santa Cruz, Retail Street





Santa Barbara, California



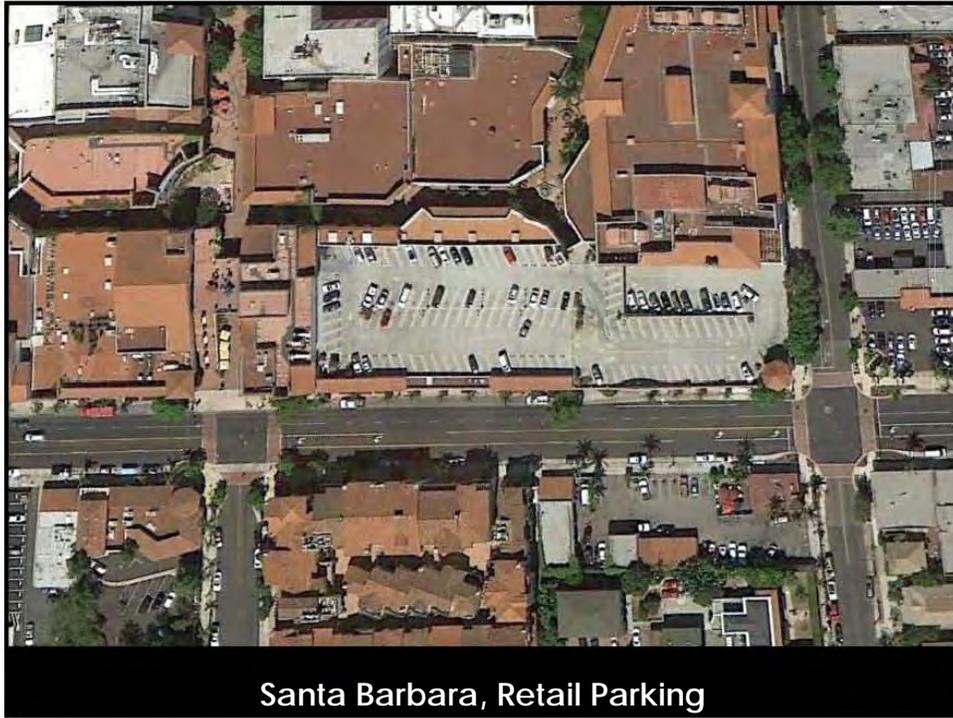
Santa Barbara, Retail Street



Santa Barbara, Retail Parking



Santa Barbara, Retail Parking



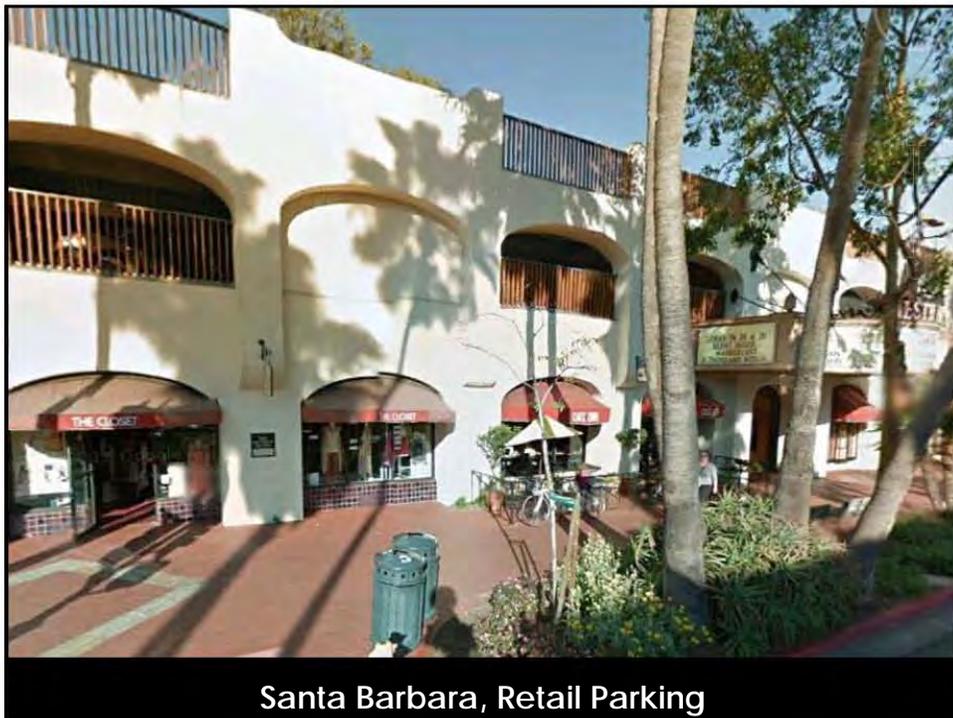
Santa Barbara, Retail Parking



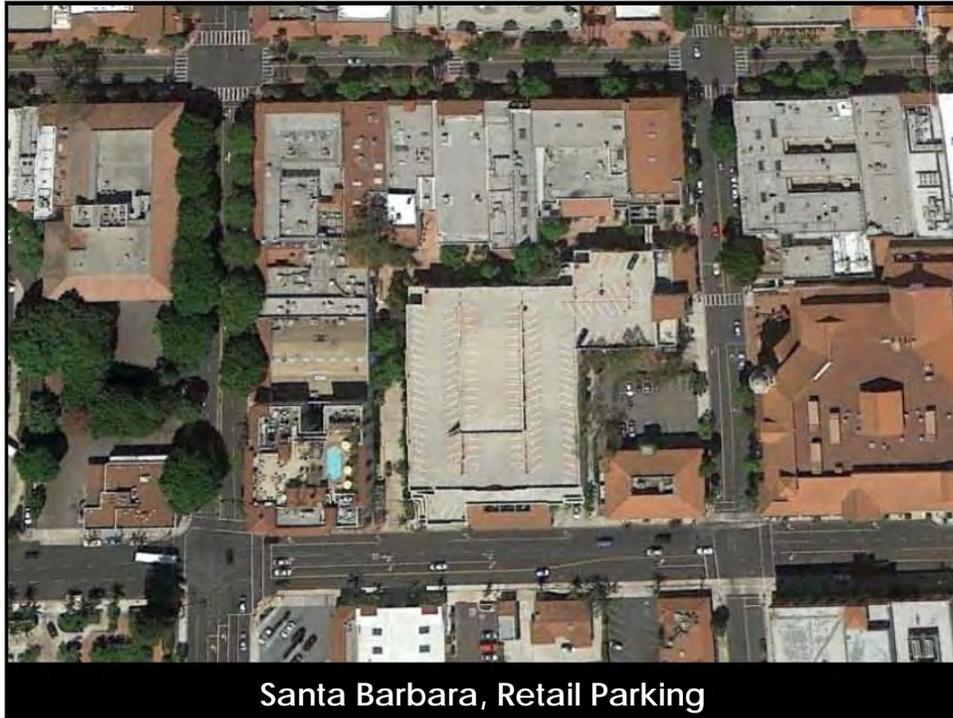
Santa Barbara, Retail Parking



Santa Barbara, Retail Parking



Santa Barbara, Retail Parking



Santa Barbara, Retail Parking



Santa Barbara, Retail Parking

# **Whitefish Parking Structure**

**Whitefish, MT**

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## **Traffic Impact Study**

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**Prepared for:**

Kimley-Horn and Associates, Inc.  
7740 North 16<sup>th</sup> Street, Suite 300  
Phoenix, AZ 85020

**Submitted by:**



1111 East Broadway  
Missoula, MT 59802

**February 2013**

**WGM Project # 12-05-20**

## **Introduction**

The City of Whitefish (City) is contemplating construction of a parking structure in the northeast corner of the intersection of 2<sup>nd</sup> Street and Baker Avenue in downtown Whitefish, Montana (**Figure 1**). The proposed parking structure will contain approximately 220 spaces, and will also house new City Hall facilities. Design and construction of the parking structure is anticipated to require approximately 18 months following final City approval of the project. For the purposes of this report, is anticipated the structure will be open for use in 2015.

The proposed parking structure will be located on the site of the existing City Hall, which will be razed as part of this project. Vehicle access to the structure will be at a single location on 1<sup>st</sup> Street (**Figure 2**).

This traffic study was prepared using standard traffic engineering techniques to determine the impacts of the proposed parking structure on traffic within the study area. A traffic capacity and level of service analysis is presented both with and without the proposed parking structure to identify the incremental impact on traffic operations caused by the presence of the structure.

The following intersections were identified for analysis in this study following consultation with the City public works department:

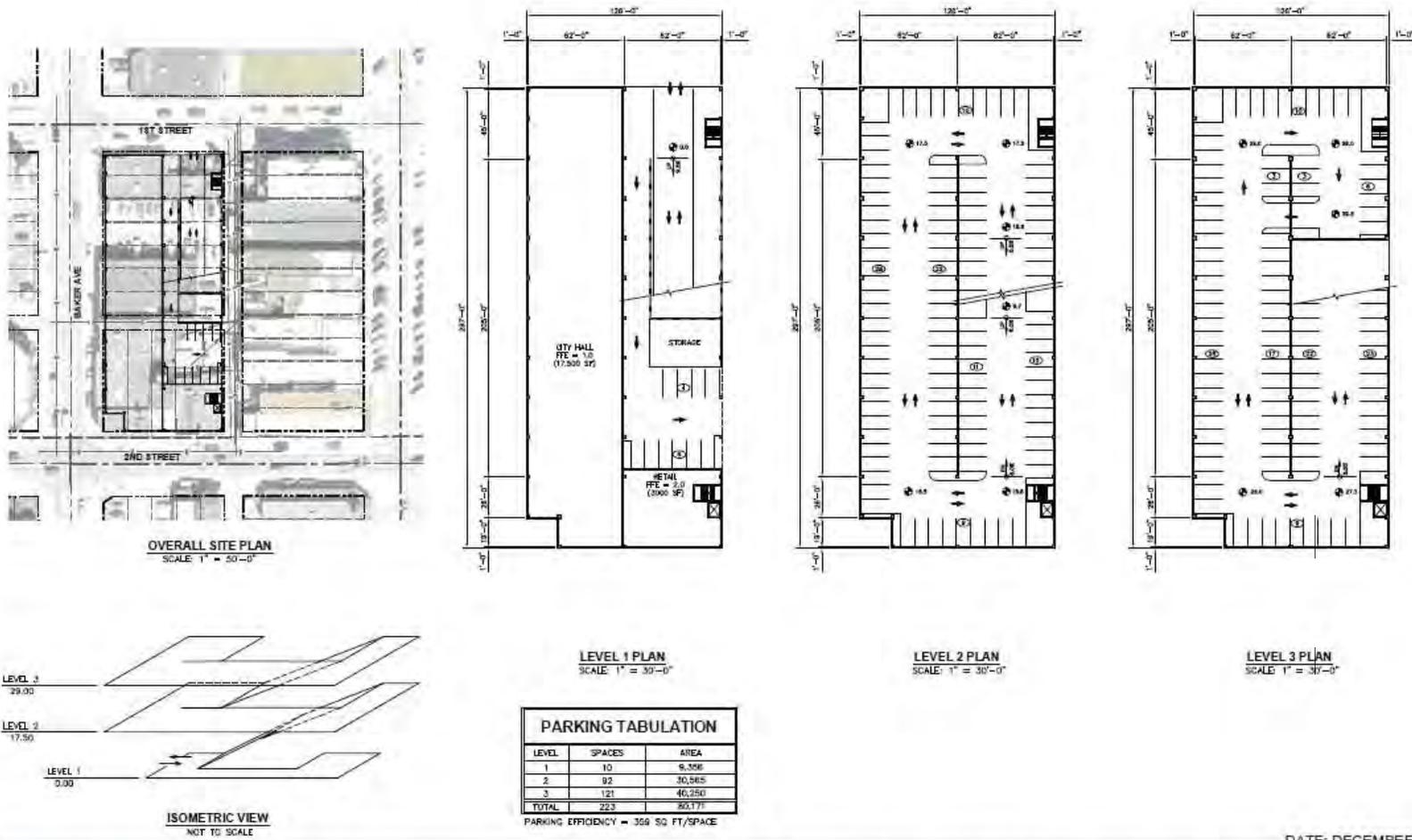
- 2<sup>nd</sup> Street and Central Avenue
- 2<sup>nd</sup> Street and Baker Avenue
- 1<sup>st</sup> Street and Central Avenue
- 1<sup>st</sup> Street and Baker Avenue
- 1<sup>st</sup> Street and Parking Structure Access

In brief, the analysis presented in this report leads to the conclusion that the parking structure traffic will not adversely impact traffic operations at the study intersections, except on the side-street approaches of 1<sup>st</sup> Street to Baker Avenue. Various means of addressing the impacts at this location are discussed.

Figure 1: Project Vicinity Map



Figure 2: Site Plan



DATE: DECEMBER 3rd 2012



SITE A - 2nd STREET AND BAKER AVE  
PARKING GARAGE ALTERNATIVE 2



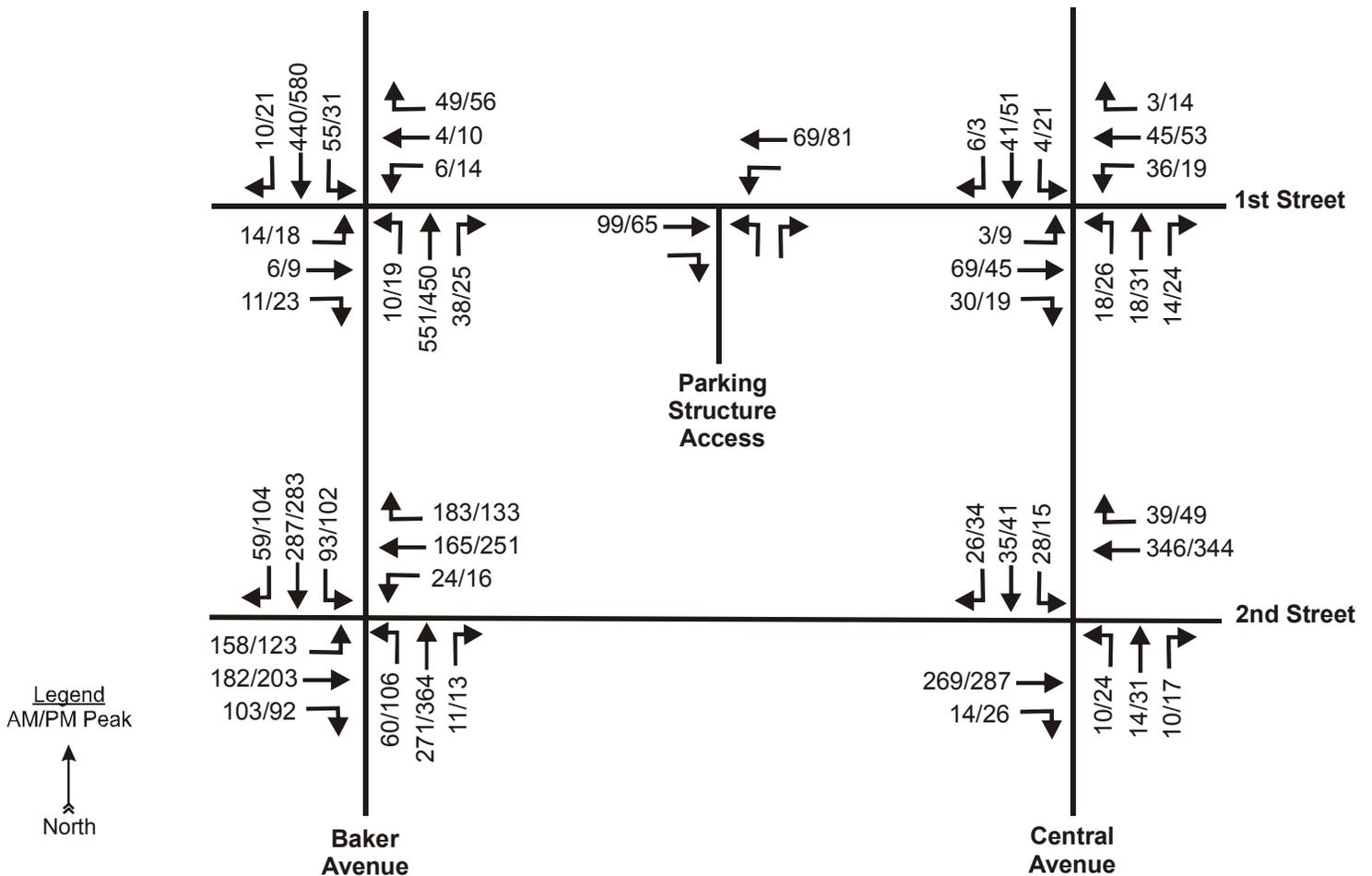
## Existing Traffic Volume

WGM Group, Inc. (WGM) staff conducted AM and PM peak-period manual traffic counts to identify existing peak-hour traffic volumes at each of the study intersections. These counts were conducted on Tuesday and Wednesday January 15 and 16, 2013. The AM peak-period counts were conducted from 7:30 to 9:00 AM, and the PM peak-period counts were conducted between 4:00 and 6:00 PM. The count data (**Appendix A**) was analyzed to determine the existing AM and PM peak-hour traffic volume at each study intersection.

WGM had also conducted PM peak-period counts at both of the 2<sup>nd</sup> Street study intersections in August of 2012 for an unrelated project. Comparisons of the January and August counts revealed that traffic volumes were notable higher during the summer months. Consequently, WGM used the August PM peak hour 2<sup>nd</sup> Street counts to calculate a seasonal adjustment factor, and applied this factor to all of the January counts conducted for this study, resulting in seasonally adjusted peak summer condition traffic volumes for each of the study locations.

**Figure 3** shows the seasonally adjusted AM and PM peak-hour existing traffic volumes used for this report.

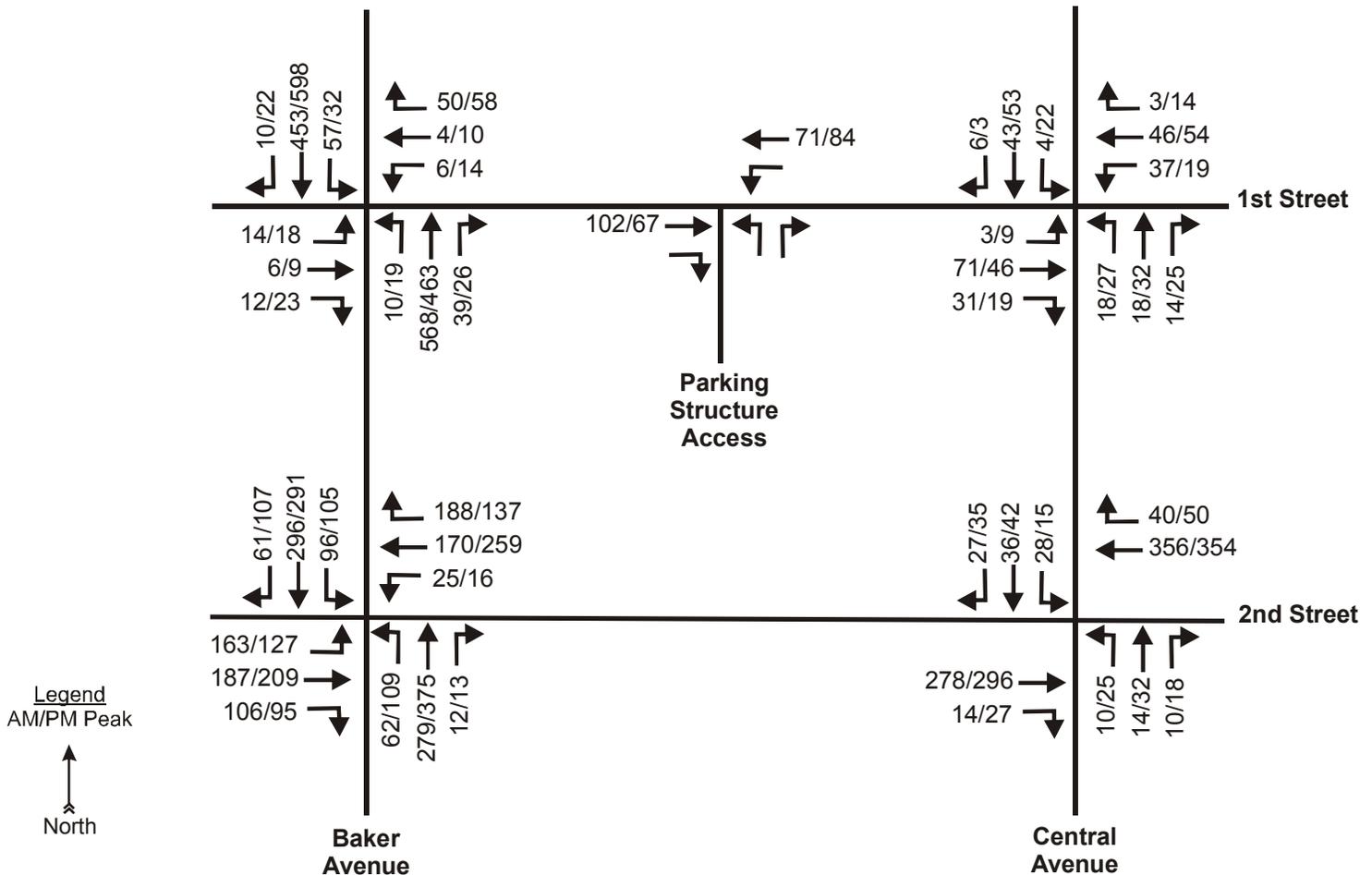
**Figure 3: 2013 Seasonally Adjusted Existing Peak-Hour Traffic Volume**



## 2015 No-Build Traffic Volumes

The seasonally adjusted 2013 existing traffic volumes were projected to the anticipated year of opening, 2015, using a 1.5 percent per year peak-hour traffic growth rate. This growth rate was derived from data contained in the Whitefish Urban Corridor Study. These projected 2015 traffic volumes are shown in **Figure 4** and represent the baseline peak-hour traffic condition projected to exist in the study year without construction of the parking structure.

**Figure 4: 2015 No-Build Peak-Hour Traffic Volume**



## **Parking Structure Related Trips**

The City has considered numerous parking structure configurations at the subject location. According to information provided by the City’s parking structure consultant, Kimley-Horn and Associates, Inc. (Kimley-Horn), the list has been narrowed to two possibilities, each containing approximately 220 structured parking spaces. The structure will also house new City Hall offices.

The new parking structure will encompass the entire western half of the city block north of 2<sup>nd</sup> Street and east of Baker Avenue. The current use of this area includes the existing City Hall offices, 40 existing off-street parking spaces used primarily by City employees, and a couple small businesses that front onto 1<sup>st</sup> Street. The 40 existing City employee parking spaces that will be lost to construction of the parking structure will effectively be replaced in the structure, resulting in a total of 180 net new parking spaces within the structure.

To estimate the number of trips that will be attracted to the parking structure, data was obtained by Kimley-Horn tabulating the number of vehicles arriving at, and departing from, a comparable parking structure. This data was provided for each hour of the day, and categorized as users of either transient (i.e., occasional) or monthly (i.e., regular daily) parking spaces.

Discussions with Kimley-Horn suggest it is reasonable to assume for the purposes of this traffic analysis, that the Whitefish parking structure will consist of 40% transient space allocation and 60% monthly space allocation. Review of five days’ worth of weekday data from the comparable parking structure reveals the percentage of total allocated spaces filled/emptied during the peak hour as shown in **Table 1**. Applying these rates to the 180 net new spaces and the estimated 40/60 transient/monthly parking space allocation results in the estimated peak-hour trips associated with the 180 net new spaces in the parking structure (**Table 1**).

**Table 1: Parking Structure Related Vehicle Trips**

	Transient		Monthly	
	Enter	Exit	Enter	Exit
AM Peak Hour Percentage*	32.0%	2.2%	30.9%	1.0%
PM Peak Hour Percentage*	5.1%	34.5%	1.0%	24.9%
AM Peak Hour Trips	23	2	33	1
PM Peak Hour Trips	4	25	1	27

\*Percentage of all spaces so designated (i.e., transient or monthly) that experience a vehicle entering or exiting.

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## **Assignment of Site-Generated Trips**

Parking structures do not generate new trips, instead they capture trips that already exist. As a result, it could be reasonably argued that the trips added to turning movements at the study intersections as being associated with the new facility, could also be deducted from other movements that they are currently using. However, to do so would require significant speculation as to where these vehicles currently park and how they arrive at those parking spaces. Such speculation has a good chance of being inaccurate. Therefore, no credit is being taken for the existing trips that will be eliminated, resulting in a very conservative set of traffic volumes for capacity analysis.

Arrival/departure patterns were estimated for the new parking structure trips. These patterns are based on the existing traffic volumes approaching downtown, and are illustrated in **Figure 5**.

The parking structure related trips from **Table 1** were distributed to the roadway network in accordance with this trip distribution pattern, resulting in the AM and PM peak-hour site-generated trips shown in **Figure 6**.

Figure 5: Site Traffic Arrival/Departure Patterns

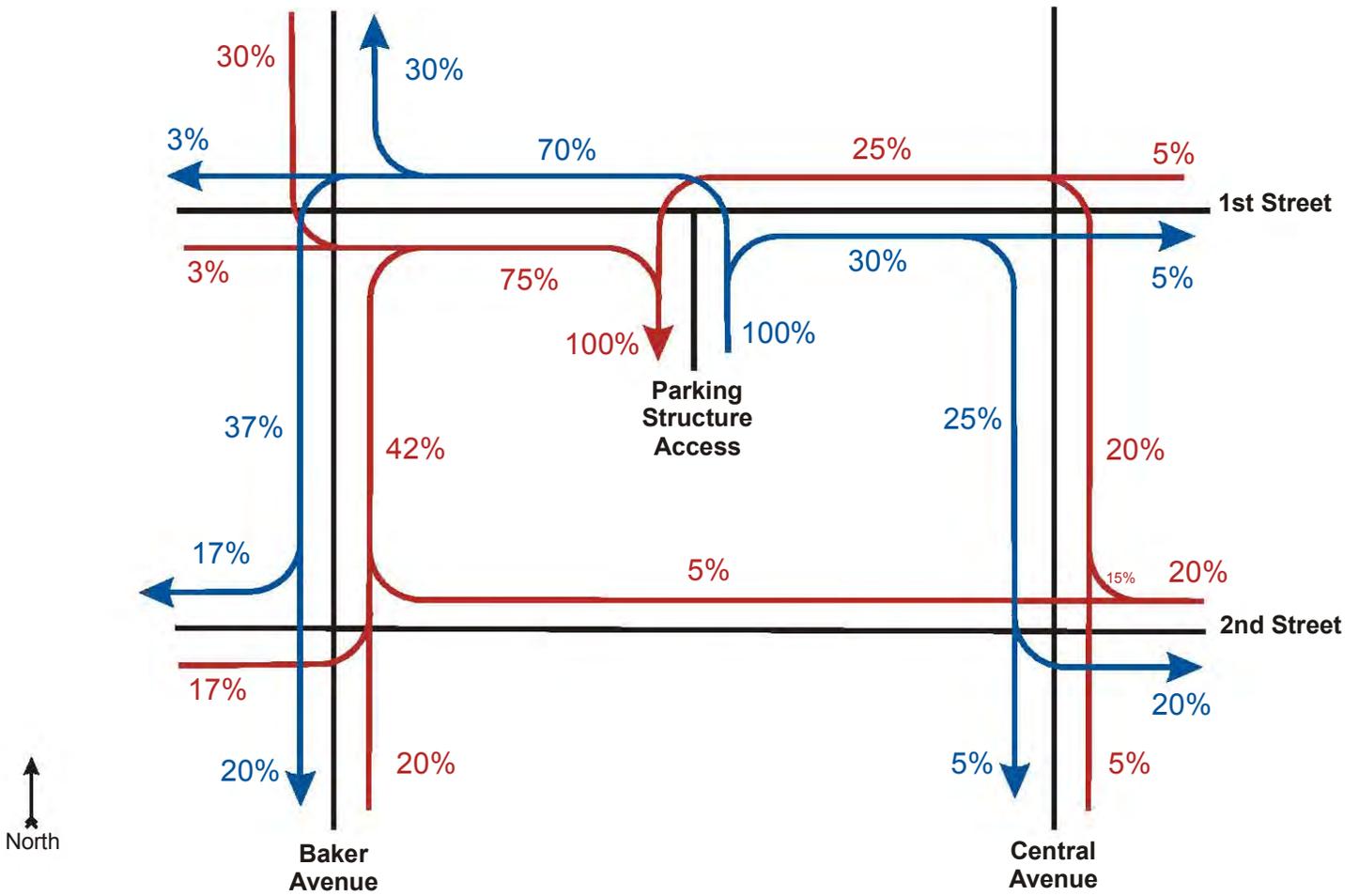
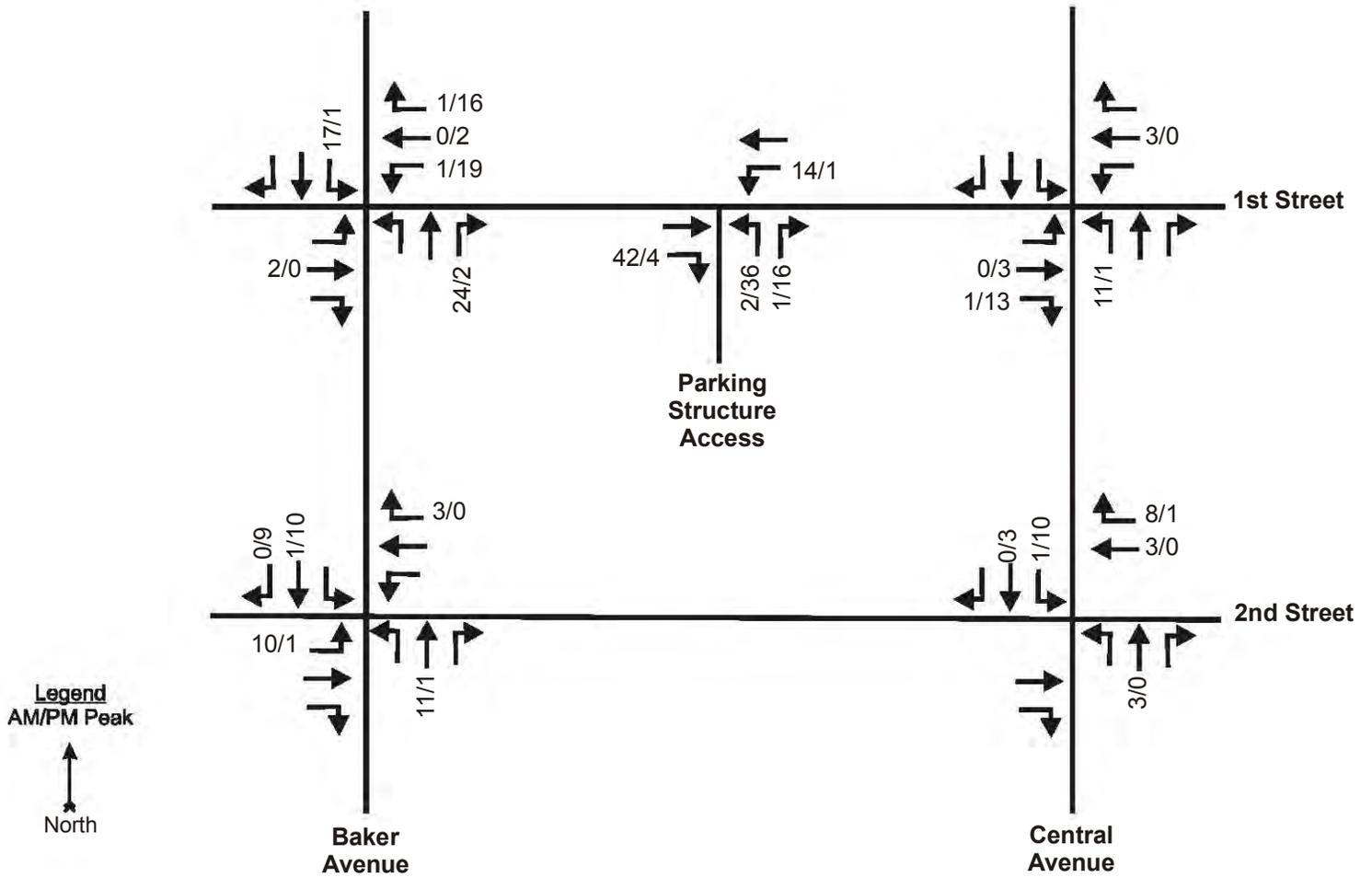


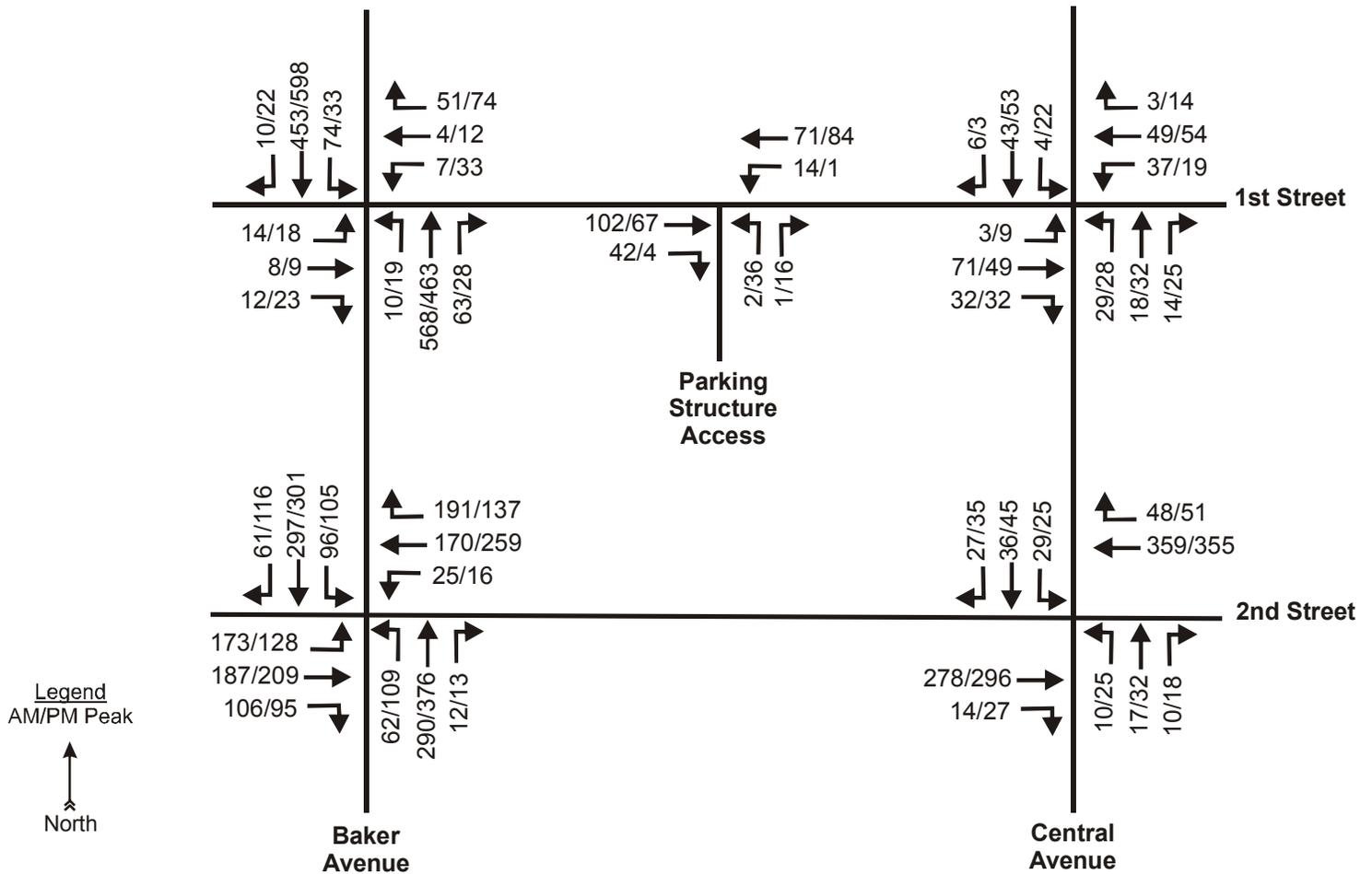
Figure 6: Parking Structure Trips



## 2015 Build Traffic Volumes

Traffic associated with the parking structure was combined with the 2015 no-build traffic volumes resulting in the projected 2015 build traffic volumes shown in **Figure 7**. These are the traffic volumes projected to exist in 2015 with the opening of the parking structure.

**Figure 7: 2015 Build Peak-Hour Traffic Volume**



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## **Capacity Analysis**

To identify the potential traffic impacts of the proposed parking structure, an intersection capacity analysis was performed for each of the study intersections using the no-build and build traffic volumes developed in this report. The analysis was performed in accordance with the procedures presented in the *Highway Capacity Manual* published by the Transportation Research Board. The analysis worksheets are contained in **Appendix B**.

The analysis procedures result in traffic level of service (LOS) rankings from A to F; with A representing essentially free-flow conditions and F representing congested conditions. See **Appendix C** for a description of the various LOS categories.

## Intersection of 2<sup>nd</sup> Street and Central Avenue

### Existing Conditions

2<sup>nd</sup> Street (also US Highway 93) is an east/west principal arterial roadway consisting of one lane in each direction. Central Avenue approaches from the north and south, with a single lane on each approach shared by all traffic movements. Left-turns from 2<sup>nd</sup> Street onto Central Avenue are prohibited at this location. This intersection is at the heart of downtown Whitefish and experiences significant pedestrian traffic. The number of pedestrians at this intersection during the peak traffic hours were counted as part of the manual traffic counts, and included in the traffic analysis.

This intersection is controlled by a simple two-phase traffic-signal, with vehicle detection on the northbound and southbound Central Avenue approaches. This signal is part of a progressive traffic signal system along 2<sup>nd</sup> Street operating on an 85 second cycle length.

### Capacity Analysis

Capacity analysis of this intersection was conducted using the 2015 no-build and build traffic volumes developed in this report, and the above-described intersection configuration. The results of this analysis are summarized in **Table 2**.

**Table 2: 2<sup>nd</sup> Street and Central Avenue  
LOS Summary**

	AM Peak Hour				PM Peak Hour			
	2015 No-Build		2015 Build		2015 No-Build		2015 Build	
	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
Eastbound Th/Rt	4.7	A	4.9	A	3.8	A	4.0	A
Westbound Th/Rt	7.8	A	8.4	A	6.0	A	6.4	A
Northbound Lt/Th/Rt	23.9	C	24.4	C	28.8	C	28.0	C
Southbound Lt/Th/Rt	29.6	C	30.1	C	25.5	C	29.1	C

Delay is measured in seconds per vehicle.

As illustrated by the analysis results summarized in **Table 2**, the traffic added to this intersection by the proposed parking structure will result in very minor increases in delay, without the need of intersection or traffic control improvements to offset the added traffic.

## Intersection of 2<sup>nd</sup> Street and Baker Avenue

### Existing Conditions

2<sup>nd</sup> Street is an east/west principal arterial roadway and Baker Avenue is a north/south minor arterial roadway. Each of the four approaches to this intersection provide one dedicated left-turn lane and one shared through/right-turn lane. Pedestrian volumes are not as significant at this intersection as they are at Central Avenue, but were still counted and included in the traffic analysis.

This intersection is traffic-signal controlled with vehicle detection for the northbound and southbound approaches, as well as for the eastbound and westbound left-turn lanes. Protected plus permitted left-turn timing (i.e., a green protected left-turn arrow signal phase, followed by a permitted green ball phase) is used on all four intersection approaches. This signal is part of a progressive traffic signal system along 2<sup>nd</sup> Street operating on an 85 second cycle length.

### Capacity Analysis

Capacity analysis of this intersection was conducted using the 2015 no-build and build traffic volumes developed in this report, and the above-described intersection configuration. The results of this analysis are summarized in **Table 3**.

**Table 3: 2<sup>nd</sup> Street and Baker Avenue  
LOS Summary**

	AM Peak Hour				PM Peak Hour			
	2015 No-Build		2015 Build		2015 No-Build		2015 Build	
	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
Eastbound Left	19.9	B	21.2	C	18.1	B	18.7	B
Eastbound Th/Rt	18.5	B	18.5	B	17.6	B	17.9	B
Westbound Left	9.6	A	10.2	B	9.8	A	9.8	A
Westbound Th/Rt	19.1	B	19.7	B	25.5	C	26.0	C
Northbound Left	17.4	B	17.4	B	23.4	C	23.7	C
Northbound Th/Rt	36.7	D	38.2	D	47.6	D	44.8	D
Southbound Left	19.0	B	19.2	B	22.4	C	21.6	C
Southbound Th/Rt	46.7	D	46.7	D	51.6	D	54.7	D

Delay is measured in seconds per vehicle.

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As illustrated by the analysis results summarized in **Table 3**, the traffic added to this intersection by the proposed parking structure will result in very minor increases in delay, without the need of intersection or traffic control improvements to offset the added traffic.

## Intersection of 1<sup>st</sup> Street and Central Avenue

### Existing Conditions

Both 1<sup>st</sup> Street and Central Avenue are local streets serving the Whitefish downtown commercial district. 1<sup>st</sup> Street is east/west and Central Avenue is north/south. All approaches to this intersection consist of a single lane, with on-street parking on both sides of each street.

This intersection is controlled by an all-way stop condition. Significant pedestrian traffic was observed crossing all legs of this intersection, particularly during the PM peak hour.

### Capacity Analysis

Capacity analysis of this intersection was conducted using the 2015 no-build and build traffic volumes developed in this report, and the above-described intersection configuration. The results of this analysis are summarized in **Table 4**.

**Table 4: 1<sup>st</sup> Street and Central Avenue  
LOS Summary**

	AM Peak Hour				PM Peak Hour			
	2015 No-Build		2015 Build		2015 No-Build		2015 Build	
	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
Eastbound Lt/Th/Rt	8.18	A	8.26	A	7.84	A	7.88	A
Westbound Lt/Th/Rt	8.34	A	8.45	A	8.02	A	8.05	A
Northbound Lt/Th/Rt	8.01	A	8.22	A	7.91	A	7.97	A
Southbound Lt/Th/Rt	8.08	A	8.14	A	8.06	A	8.11	A

Delay is measured in seconds per vehicle.

This intersection operates at a very good level of service, and will continue to do so even after traffic from the parking structure is added. No intersection or traffic control improvements are needed at this intersection.

## Intersection of 1<sup>st</sup> Street and Baker Avenue

### Existing Conditions

Baker Avenue is a north/south minor arterial roadway consisting of one wide lane and a shoulder in each direction. On the west side of Baker Avenue, south of the intersection, the shoulder is used for parallel on-street parking. 1<sup>st</sup> Street forms the eastbound and westbound approaches of this intersection, with a single lane for all movements on each approach. On-street parallel parking is permitted on both sides of 1<sup>st</sup> Street, both east and west of the intersection. This intersection is controlled by stop signs on the eastbound and westbound 1<sup>st</sup> Street approaches.

### Capacity Analysis

Capacity analysis of this intersection was conducted using the 2015 no-build and build traffic volumes developed in this report, and the above-described intersection configuration. The results of this analysis are summarized in **Table 5**.

**Table 5: 1<sup>st</sup> Street and Baker Avenue  
LOS Summary**

	AM Peak Hour				PM Peak Hour			
	2015 No-Build		2015 Build		2015 No-Build		2015 Build	
	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
Eastbound Lt/Th/Rt	37.6	E	44.6	E	46.0	E	49.9	E
Westbound Lt/Th/Rt	19.1	C	21.2	C	28.0	D	52.4	F
Northbound Lt/Th/Rt	8.4	A	8.4	A	9.1	A	9.1	A
Southbound Lt/Th/Rt	9.3	A	9.6	A	8.7	A	8.7	A

Delay is measured in seconds per vehicle.

This intersection will be used by an estimated 70 to 75% of all parking structure related traffic, more than any other study intersection other than the structure access point. Traffic operations on northbound and southbound Baker Avenue are good, and will continue to be so even after the parking structure traffic is added. Parking structure related traffic does result in an increase in vehicle delay on the stop-controlled side street approaches, with the largest increase projected on the westbound approach during the PM peak hour as traffic exits the parking structure. This movement is projected to experience LOS F, with 52.4 seconds of delay for the average vehicle.

As discussed earlier in this report, the year 2015 Build traffic volume estimates may be overly conservative because traffic driving to current parking locations was not deducted from the intersections before the traffic driving to the parking structure was added. Parking structures do not generate traffic, they simply attract existing traffic. As a result of this, the extent of delay experienced at this intersection may similarly be overstated.

#### *All-way Stop*

Alternatives were considered to address the proposed delay situation. An all-way stop would not be advisable at this location because of the large platoons of traffic approaching from the traffic signal at 2<sup>nd</sup> and Baker. Stopping all of this traffic at once would likely cause back-ups into the 2<sup>nd</sup> Street intersection.

#### *Roundabout*

A roundabout was briefly considered, and if right-of-way can be cleared in the southeast corner of the intersection with the parking structure redevelopment project, then one may be possible; but the large clock tower in the southwest corner would very likely have to be removed and right-of-way acquired from the bank.

#### *Traffic Signal*

A traffic signal would alleviate the side-street traffic delays, but would noticeably increase delays on Baker Avenue. While a traffic signal warrant study is beyond the scope of this report, an initial assessment of signal warrant criteria, based on the available peak hour traffic volumes, suggests that signal warrants are unlikely to be met at this location. Additional

analysis of the interaction between a traffic signal at this location and the existing signal at 2<sup>nd</sup> and Baker would also have to be prepared. MDT concurrence would be required for installation of a traffic signal at this intersection, as Baker Avenue is under MDT jurisdiction.

#### *Turning Restrictions*

Restricting movements for vehicles exiting the parking structure (i.e., requiring traffic to only turn right onto 1<sup>st</sup> Street) would force drivers destined north on Baker Avenue or west of Baker Avenue (an estimated 50% of all parking structure traffic) to use circuitous routes through numerous additional intersections to reach their destinations. Similarly, prohibiting left-turn and through movements from westbound 1<sup>st</sup> Street at Baker Avenue would result in



out of direction travel for large portions of parking structure traffic, as well as the existing traffic on these movements.

*Equilibration or Added Turn Lane*

While none of the above possibilities can be ruled out entirely (except perhaps the all-way stop), it does appear that the most practical proposal would be to either 1) leave the intersection of 1<sup>st</sup> and Baker as it is today and allow traffic to equilibrate between this and other routes on its own during the busiest peak hours, while providing full traffic movement flexibility during other non-peak hours of the day (remembering that the summer traffic volume being analyzed is calculated to be 25% higher than the counted winter traffic, and that spring and fall shoulder season traffic might be lower still); or 2) removing on-street parking from 1<sup>st</sup> Street between Baker Avenue and the alley (approximately 7 spaces) and rededicating this space to establish a separate right-turn lane on 1<sup>st</sup> Street as it approaches Baker Avenue. This right-turn lane would allow 60 to 80 percent of traffic on this approach to be in its own lane, which would experience relatively low delay, while the remaining 20 to 40 percent (an estimated 11 AM and 45 PM vehicles) would continue to experience long delays in the left/through lane. **Table 6** summarizes the effects on capacity analysis of including a separate westbound right-turn lane.

**Table 6: 1<sup>st</sup> Street and Baker Avenue – With Additional Westbound Right-turn Lane  
LOS Summary**

	AM Peak Hour						PM Peak Hour					
	2015 No-Build		2015 Build		2015 Build with Improvements		2015 No-Build		2015 Build		2015 Build with Improvements	
	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS	Delay	LOS
Eastbound Lt/Th/Rt	37.6	E	44.6	E	<b>44.6</b>	<b>E</b>	46.0	E	49.9	E	<b>49.9</b>	<b>E</b>
Westbound Lt/Th/Rt	19.1	C	21.2	C	n/a	n/a	28.0	D	52.4	F	n/a	n/a
Westbound Lt/Th	n/a	n/a	n/a	n/a	<b>46.8</b>	<b>E</b>	n/a	n/a	n/a	n/a	<b>79.1</b>	<b>F</b>
Westbound Right	n/a	n/a	n/a	n/a	<b>13.5</b>	<b>B</b>	n/a	n/a	n/a	n/a	<b>12.0</b>	<b>B</b>
Northbound Lt/Th/Rt	8.4	A	8.4	A	<b>8.4</b>	<b>A</b>	9.1	A	9.1	A	<b>9.1</b>	<b>A</b>
Southbound Lt/Th/Rt	9.3	A	9.6	A	<b>9.6</b>	<b>A</b>	8.7	A	8.7	A	<b>8.7</b>	<b>A</b>

Delay is measured in seconds per vehicle.

n/a – not applicable for this analysis scenario

*Queuing*

Without a separate right-turn lane, it is estimated that the 95<sup>th</sup> percentile traffic queue on westbound 1<sup>st</sup> Street at Baker Avenue will be one to four vehicles long. With the separate right-turn lane these queues would be expected to be reduced by at least one vehicle. The available queue capacity on 1<sup>st</sup> Street without interfering with operations at the parking structure access is approximately 100 feet, or four vehicles, as measured from Baker Avenue.

## Intersection of 1<sup>st</sup> Street and Parking Structure Access Point

### Existing Conditions

This intersection does not currently exist. 1<sup>st</sup> Street is an east/west local street consisting of one lane in each direction with on-street parking. The parking structure access will be constructed with one entering lane and one exiting lane, with the exit stop-sign controlled.

### Capacity Analysis

Capacity analysis of this intersection was conducted using the 2015 build traffic volumes developed in this report, and the above-described intersection configuration. The results of this analysis are summarized in **Table 7**.

**Table 7: 1<sup>st</sup> Street and Parking Structure Access  
LOS Summary**

	Peak AM Hour		Peak PM Hour	
	2015 Build		2015 Build	
	Delay	LOS	Delay	LOS
Westbound Lt/Th	7.6	A	7.4	A
Northbound Lt/Rt	9.7	A	9.6	A

Delay is measured in seconds per vehicle.

As illustrated by the analysis results summarized in **Table 7**, this intersection will operate very well and requires no intersection improvements beyond the construction of the parking structure access and stop sign.

## **Crash Analysis**

### **Crash History**

Crash data for a three-year period from July 1, 2009 to June 30, 2012 was obtained from the MDT Traffic and Safety Bureau to identify areas of traffic safety concern. Over the three-year period examined, a total of eleven crashes were reported at the four project intersections. An analysis of the crash data revealed the following information.

**First Street:** A total of two crashes were reported on 1<sup>st</sup> Street. Both involved parked cars being hit. The first was struck by a commercial truck trying to make a westbound left-turn into the alley between Baker and Central, and the second vehicle was struck by a substance-impaired driver making a U-turn.

**2<sup>nd</sup> Street and Central Avenue:** Two crashes were reported at this intersection. In both cases an eastbound vehicle stopped at the traffic signal was rear-ended by another eastbound vehicle. In one of these cases the offending driver was distracted by their cell phone.

### **2<sup>nd</sup> Street and Baker Avenue:**

- One rear-end crash from a vehicle hitting the back of another vehicle that was stopped in queue.
- Three red light running crashes, one of which occurred with the signal in flash mode.
- One truck with trailer that hit a signal pole during a westbound right-turn onto Baker.
- One rear-end southbound on Baker where the first southbound vehicle paused on green to allow an emergency vehicle to pass on 2<sup>nd</sup> Street, and the vehicle behind it did not stop.
- One backing accident where a westbound vehicle backed up to allow more room for a truck turning from the north, and backed into the car behind it.

From approximately September 2011 to June 2012, 2<sup>nd</sup> Street was undergoing significant reconstruction, including construction traffic control and vehicle closures/detours, potentially affecting crash experience during that time. One of the above crashes (a rear-end crash at Central Avenue) occurred during this timeframe.

The types of crashes experienced at the study intersections are typical of urban driving conditions. Not all crashes can be prevented. However, the traffic signal improvements made with the recently completed US 93/Second Street Improvement Project are expected to reduce red-light running crashes on Baker Avenue with the installation of overhead traffic signal heads.

The review of this crash data has not resulted in the identification of any additional safety improvements within the study area.

## **Other Traffic Related Observations**

- New City Hall facilities will be included in the construction of the parking structure, including new council chambers. It is reasonable to assume that attendees at City meetings may park in the parking structure, potentially resulting in a large number of vehicles arriving at the start of the meeting, or departing after the conclusion of business on a particularly interesting or contentious matter. However, because these meetings typically start at 7:00 PM, and end much later, it is anticipated that background street traffic volumes will be low enough that a momentary surge in parking structure traffic can readily be accommodated.
- Care should be taken during demolition and construction of the site to limit the use of surrounding streets for the staging of materials and equipment.
  - 1<sup>st</sup> Street is the least critical in this regard, and could be reduced to one lane westbound if necessary, with alternate routes on Railway Street and on 2<sup>nd</sup> Street conveniently available to the relatively low volume of displaced traffic.
  - For Baker Avenue, the only viable alternative for traffic destined north of the railroad (via East 2<sup>nd</sup> Street and Edgewood Place) takes traffic more than 2.5 miles out of their way, on streets that are narrow in some places. Placing truck traffic on this route might be challenging. Based on this, it is important to keep Baker Avenue open to travel in both directions. In the area of the site, Baker consists of three lanes, one northbound, one southbound, and a southbound left-turn lane. While it is possible to block off an area adjacent to the site and reduce Baker to just two lanes, this would increase delay for all vehicles using this intersection by an average of 10 seconds; increased congestion along 2<sup>nd</sup> Street to a degree that would impact operations at Central and Spokane; and queue lengths on all approaches would be expected to increase by one to five vehicles (25 to 125 feet). If lane closures on Baker Avenue are planned, every effort should be made to limit these to off-peak times of year to minimize impacts to vehicle traffic.
  - 2<sup>nd</sup> Street is a principal arterial highway carrying significant volumes of through traffic. It is the main corridor through town, and a regionally significant route. Closing a lane of traffic on this highway would be expected to adversely affect traffic not only at Baker Avenue, but at numerous intersections both east and west. Closure of a lane on 2<sup>nd</sup> Street should be a last resort and, if allowed at all, should be for minimal periods of time during off-peak seasons.
- Truck-turning maneuvers from westbound second street to northbound Baker Avenue have always been challenging because of the limited turning radius at this corner. With the removal of the existing city hall building and reconstruction of this site, it is possible to mitigate these conditions by providing space for a larger turning radius. The recent reconstruction of the 2<sup>nd</sup> and Baker intersection was limited in its design by the presence of the building, resulting in

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a design that can accommodate a WB40 design vehicle (i.e., a vehicle with 40 feet between its first and last axle). A WB50 design vehicle would be more appropriate at this location as numerous construction and delivery vehicles make this turn. The attached figure illustrates the radii necessary to accommodate a WB50 with the rear wheels dragging the face of curb. MDT has reviewed this design concept and requested that, should this design move forward, the curb be further modified to provide 2-feet between the tires and the curb face to avoid damage to the curb.

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## **CITY COUNCIL REGULAR MEETING AGENDA**

The following is a summary of the items to come before the City Council at its regular session to be held on Monday, March 4, 2013, at **7:10 p.m.** at City Hall, 402 East Second Street.

Ordinance numbers start with 13-02. Resolution numbers start with 13-04.

- 1) CALL TO ORDER
- 2) PLEDGE OF ALLEGIANCE
- 3) PRESENTATIONS
  - a) Update on High School construction project – Bayard Dominick
- 4) COMMUNICATIONS FROM THE PUBLIC – (This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)
- 5) COMMUNICATIONS FROM VOLUNTEER BOARDS
- 6) CONSENT AGENDA (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
  - a) Minutes from the February 19, 2013 Council regular session (p. 51)
- 7) PUBLIC HEARINGS (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)
  - a) Ordinance No. 13-\_\_\_; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (1<sup>st</sup> Reading) (p. 66)
  - b) Ordinance No. 13-\_\_\_; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (1<sup>st</sup> Reading) (p. 72)
- 8) COMMUNICATIONS FROM CITY MANAGER
  - a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 98)
  - b) Other items arising between February 27<sup>th</sup> and March 4<sup>th</sup>

9) COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Confirm or revise dates for initial City Council budget work sessions (p. 105)
- c) Consideration of 2014 Election – vote by mail or at polling stations (p. 107)
- d) Consideration of appointing a City Council member to Employee Health Insurance Committee - Frank Sweeney's initial term has expired (p. 122)

10) ADJOURNMENT (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)



The following Principles for Civil Dialogue are adopted on 2/20/2007 for use by the City Council and by all boards, committees and personnel of the City of Whitefish:

- We provide a safe environment where individual perspectives are respected, heard, and acknowledged.
- We are responsible for respectful and courteous dialogue and participation.
- We respect diverse opinions as a means to find solutions based on common ground.
- We encourage and value broad community participation.
- We encourage creative approaches to engage public participation.
- We value informed decision-making and take personal responsibility to educate and be educated.
- We believe that respectful public dialogue fosters healthy community relationships, understanding, and problem-solving.
- We acknowledge, consider and respect the natural tensions created by collaboration, change and transition.
- We follow the rules and guidelines established for each meeting.

Adopted by Resolution 07-09  
February 20, 2007



February 27, 2013

The Honorable Mayor Muhlfeld and City Councilors  
City of Whitefish  
Whitefish, Montana

Mayor Muhlfeld and City Councilors:

**Monday, March 4, 2013 City Council Agenda Report**

There will be a special session on the Parking Decks/Structures Feasibility Study beginning at 5:30 p.m. We will provide food.

The regular Council meeting will begin at 7:10 p.m.

**CONSENT AGENDA** (The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

- a) Minutes from the February 19, 2013 Council regular session (p. 51)

**RECOMMENDATION:** Staff respectfully recommends the City Council approve the Consent Agenda.

**This item is an administrative matter.**

**PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

- a) Ordinance No. 13-\_\_\_; An Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee (1<sup>st</sup> Reading) (p. 66)

From City Attorney Mary VanBuskirk's staff report:

Jan Metzmaker, Director of the City of Whitefish Convention and Visitors Bureau (WCVB), sought the Council's thinking about a change in the residency requirements for perhaps two of its committee members during Public Comment at the February 18, 2013 City Council meeting. At the end of the meeting, during the time set for Councilors' Comments, City Councilors discussed the current residency requirement, which requires all nine members of the WCVB reside within the Whitefish zoning jurisdiction. The Council requested that staff prepare an ordinance amending the

residency requirements for two of the WCVB members for its consideration at the next Council meeting set for March 4, 2013.

Staff prepared two options for the Council. The first option would allow up to two WCVB members to reside outside of the City's zoning jurisdiction as long as the member was a resident of Flathead County. The second option provides no residency requirements. Either option would require the member to have an ownership interest or managerial position with a business located within the Whitefish zoning jurisdiction. All appointments to the WCVB would continue to be made by the City Council. Both options would require the City Clerk to keep track of a member's residency:

As explained in Director Jan Metzmaker's correspondence of February 26, 2013, the key consideration for the WCVB Board is the location of the business. If an individual owns or manages a business in Whitefish, the Board felt that individual would have a vested interest in ensuring the success of the member's business and should have voice in the marketing for Whitefish businesses as a member of the WCVB.

**RECOMMENDATION:** Staff respectfully recommends that the City Council, after considering testimony at the public hearing, adopt an Ordinance amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee on first reading.

**This item is a legislative matter.**

- b) Ordinance No. 13-\_\_\_; An Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 (1<sup>st</sup> Reading) (p. 72)

From Planning and Building Director Dave Taylor's staff report:

**Summary of Requested Action:** This application is a request by the city of Whitefish for a zoning text amendment to create new Section 11-3-35, Short Term Rentals, to create standards for Short Term Rentals to clarify regulations and better address safety and enforcement issues, and to amend Section 11-9-2, Definitions, to provide a definition of Short Term Rentals.

**Planning Board Recommendation:** The Whitefish City-County Planning Board held a public hearing on February 21, 2013. Following this hearing, the Planning Board recommended approval of the amendments (8-1, Konopatzke voting in opposition) with a change to the definition of Short Term Rentals to make it '..less

than thirty consecutive days..' and adopted the supporting findings of fact in the staff report.

**City Staff Recommendation:** Staff recommended approval of the text amendment attached to the staff report.

**Public Hearing:** At the public hearing, three members of the public spoke. Ken Stein, 1495 Lion Mountain Drive addressed Monterra's HOA's efforts to curb illegal short term rentals. Jill Zignego, Five Star Rentals, generally supported the new regulations and asked that existing grandfathered properties be allowed to register. She also asked for a way for properties bordering resort districts to have an option to do short term rentals. Linda McCarthy, 432A Dakota, spoke and said she complied with all the requirements but had some concerns about taxes and costs. The draft minutes of the Planning Board hearing are included in the packet.

**RECOMMENDATION:** Staff respectfully recommends that the City Council, after considering the Planning Board and staff recommendations and hearing testimony at the public hearing, adopt and Ordinance amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-20 on first reading.

**This item is a legislative matter.**

#### COMMUNICATIONS FROM CITY MANAGER

- a) Written report enclosed with the packet. Questions from Mayor or Council? (p. 98)
- b) Other items arising between February 27<sup>th</sup> and March 4<sup>th</sup>

#### COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS

- a) Standing budget item
- b) Confirm or revise dates for initial City Council budget work sessions (p. 105)
- c) Consideration of 2014 Election – vote by mail or at polling stations (p. 107)
- d) Consideration of appointing a City Council member to Employee Health Insurance Committee - Frank Sweeney's initial term has expired (p. 122)

#### ADJOURNMENT

Sincerely,



Chuck Stearns  
City Manager

## "Cheat Sheet" for Robert's Rules

<b>Motion</b>	In Order When Another has the Floor?	Second Required?	Debatable?	Amendable?	Vote Required for Adoption	Can be reconsidered?
<b>Main Motion</b>	N	Y	Y	Y	Majority unless other spec'd by Bylaws	Y
<b>Adjournment</b>	N	Y	N	Y	Majority	N
<b>Recess</b> (no question before the body)	N	Y	N	Y	Majority	N
<b>Recess</b> (question before the body)	N	Y	Y	Y	Majority	N
<b>Accept Report</b>	N	Y	Y	Y	Majority	Y
<b>Amend Pending Motion</b>	N	Y	If motion to be amended is debatable	Y	Majority	Y
<b>Amend an Amendment of Pending Motion</b>	N	Y	See above	N	Majority	Y
<b>Change from Agenda</b> to Take a Matter out of Order	N	Y	N	N	Two-thirds	N
<b>Limit Debate Previous Question / Question</b>	N	Y	N	Y	Two-thirds	Yes, but not if vote taken on pending motion.
<b>Limit Debate</b> or extend limits for duration of meeting	N	Y	Y	Y	Two-thirds	Y
<b>Division of Assembly (Roll Call)</b>	Y	N	N	N	Demand by a single member compels division	N
<b>Division of Ques/ Motion</b>	N	Y	N	Y	Majority	N
<b>Point of Information</b>	Y	N	N	N	Vote is not taken	N
<b>Point of Order / Procedure</b>	Y	N	N	N	Vote is not taken	N
<b>Lay on Table</b>	N	Y	N	N	Majority	N
<b>Take from Table</b>	N	Y	N	N	Majority	N
<b>Suspend the Rules</b> as applied to rules of order or, take motion out of order	N	Y	N	N	Two-thirds	N
<b>Refer (Commit)</b>	N	Y	Y	N	Majority	Neg. vote only

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**WHITEFISH CITY COUNCIL MINUTES**  
**February 19, 2013**  
**7:10 P.M.**

**1. CALL TO ORDER**

Deputy Mayor Kahle called the meeting to order. Councilors present were Mitchell, Sweeney, Anderson, Hildner and Hyatt. Mayor Muhlfeld was absent. City Staff present were City Manager Stearns, City Clerk Lorang, City Attorney VanBuskirk, Assistant City Manager/Finance Director Knapp, Planning and Building Director Taylor, Senior Planner Compton-Ring, Public Works Director Wilson, Parks and Recreation Director Cozad, Police Chief Dial, and Fire Chief Kennelley. Approximately 21 people were in attendance.

**2. PLEDGE OF ALLEGIANCE**

Deputy Mayor Kahle asked the Wolves from Whitefish Cub Scouts to lead the audience in the Pledge of Allegiance.

**3. COMMUNICATIONS FROM THE PUBLIC**—(This time is set aside for the public to comment on items that are either on the agenda, but not a public hearing or on items not on the agenda. City officials do not respond during these comments, but may respond or follow-up later on the agenda or at another time. The Mayor has the option of limiting such communications to three minutes depending on the number of citizens who want to comment and the length of the meeting agenda)

Rick Nelson, 565 Blanchard Lake Road, and the owner of Nelson's Hardware, thanked the City for leasing the lot on First Street and Central Avenue for parking to help make up for lost parking in the BN parking lot. He is concerned about the potential loss of parking on the lot on Central Avenue and Third Street. He is not opposed to a boutique hotel. He said thriving businesses must have good location and good access. There are no empty storefronts in Whitefish. The downtown business model seems to be healthy and there is continued investment in the downtown. Access is vital. He said there is a parking deficit and his customers tell him so every day. He said he looked between Second and Fourth Street and the retail and offices and some upstairs apartments; and according to City standards there are 36 businesses requiring parking. 224 parking spaces are needed to service the existing businesses. Along Central Avenue there is a total of 117 spaces, so they are already at a deficit before they even start talking about giving up the Third and Central lot. That lot was purchased through a BID (Business Improvement District) with the downtown businesses to ensure vitality for the downtown now and in the future. He asked them not to compound the parking problems downtown.

Toni Idol, said they own the Dick Idol Gallery near Third and Central Avenue. She said parking is an issue, but she believes that the benefit of developing a hotel at that corner would actually enhance downtown. They depend heavily on tourism and she thinks there can be alternatives to the parking issue. She is in favor of the hotel, along with addressing the parking considerations.

**4. COMMUNICATIONS FROM VOLUNTEER BOARDS**

Jan Metzmaker, Whitefish Convention and Visitors Bureau, (WCVB), said they recently received a \$30,000 technology grant so they can upgrade their website and make it responsive so it reformats the pixels; an upgrade for visitors to the website from a variety of electronic devices. They also got a \$5,000 grant to upgrade the Visitor's Information Center with technology enhancements. She

expressed thanks to the Montana Office of Tourism for these grants. She said the Native Eyewear promotion was successful and they continue to work with that company pursuing a contest to win a trip to Whitefish from EMS stores on the east coast. She said the WCVB is proposing a small change in their by-laws. Some business owners do not reside in the jurisdiction and currently aren't allowed to serve on the WCVB. They have asked staff to bring this forward to the Council for their consideration; it will be an ordinance that will require two readings.

Councilor Sweeney said the High School Construction Budget Oversight Committee met and the first bids have come back for improvements to the gym and the committee is pleased with the bids. This represents about a million dollars of the package, which is a small percentage. Councilor Hildner said bid package #2 will be out on February 26<sup>th</sup> and bid opening is scheduled for March 12<sup>th</sup> in the District Offices' board meeting room. Deputy Mayor Kahle said he attended the Resort Tax meeting and the numbers are up.

Councilor Anderson said he and Manager Stearns attended the Regional Wastewater Committee meeting and the discussion included how the potential regulations may impact wastewater treatment facilities across the county. He said there seems some movement for those entities to work together. The fiscal issues could be significant. It could be a lot of money. It is a long process, but he was encouraged by the communication.

**5. CONSENT AGENDA**-(The consent agenda is a means of expediting routine matters that require the Council's action. Debate does not typically occur on consent agenda items. Any member of the Council may remove any item for debate. Such items will typically be debated and acted upon prior to proceeding to the rest of the agenda. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

**5a. Minutes from the February 4, 2013 Council regular session (p. 41)**

Councilor Hildner offered a correction on Minutes page 7 (packet page 47), paragraph 3: "imperious" surfaces should be replaced with "impervious" surfaces.

**Councilor Hyatt offered a motion, seconded by Councilor Sweeney, to approve the consent agenda, as amended. The motion passed unanimously.**

**6. PUBLIC HEARINGS** (Items will be considered for action after public hearings) (Resolution No. 07-33 establishes a 30 minute time limit for applicant's land use presentations. Ordinances require 4 votes for passage – Section 1-6-2 (E)(3) WCC)

**a) 6a. Consideration of a request by Dan Graves on behalf of Winter Sports Inc. for an extension to the Big Mountain Village preliminary plat (p. 51)**

Senior Planner Compton-Ring reported that Dan Graves of the Whitefish Mountain Resort is requesting a 24-month extension for the Big Mountain Village preliminary plat. The Big Mountain Village is an 11-lot resort/commercial subdivision on 12.638 acres located at the end of Big Mountain Road. The preliminary plat was approved by the Whitefish City Council on March 5, 2007. Several extensions have been granted and the preliminary plat now expires March 5, 2013.

*Current Subdivision Regulations:*

Upon passage of HB 522 in 2011, the Council adopted amendments to the Subdivision Regulations providing two options for extensions – first, a simple 2-year extension is permitted provided the developer can show continued good faith in working toward final plat. Second, if

additional time is needed, a subsequent request may be made along with justification for the request. There are no timeframes identified in the regulations with this type of request, providing maximum flexibility for both the Council and the developer. Such requests are reviewed by the Council during a public hearing.

This subdivision was one part of the implementation plan to redevelop the core village area, as identified in the 2006 Big Mountain Neighborhood Plan adopted by the Council. The lots are proposed to be resort-related uses, new parking is proposed to be under the new buildings and the development is centered around a new skier 'hub' at the base of Chair One and Two. Part of the village redevelopment included 'daylighting' streams previously piped and construction of an overall stormwater management plan to direct sediment laden run-off away from streams to the former sewerage lagoons for treatment. The streams are an integrated amenity to the plan and an improvement to the current conditions.

*Change in Standards:*

Since 2007, when the Big Mountain Village Preliminary Plat was approved by the Whitefish City Council, certain regulations have been amended including the Water Quality Protection Regulations and the Subdivision Regulations. Below is a summary of items that have changed and are pertinent to this preliminary plat:

- The stream setback of 25-feet met the regulations in place at the time of the plat, but falls short of the 100-foot setback plus 10-foot setback in the current water quality protection regulations (WQPR). The WQPR provides the possibility to reduce buffers through averaging and enhancement, but the buffer could be no less than 50-feet.
- Some of the lots exceed 10% slope, requiring a geotechnical reconnaissance to determine whether or not further geotech review is warranted. A geotechnical investigation report was submitted along with the preliminary plat and focused on the development of Lot 1.
- Some of the lots exceed 30% slope, which isn't permitted in the subdivision regulations. However, these slopes are manmade and it was anticipated that the topography would be re-worked and the proposed design of the future buildings was intended to serve as retaining walls to protect these slopes.
- The private access streets are proposed to be built within a 40-foot right of way versus the city standard of 50-feet. The Big Mountain Fire Department did not have any concerns with the roads.

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on February 1, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on January 30, 2013. Two comments have been received in opposition to the extension and are attached to the report in the packet.

Staff respectfully recommends the Council **approve** the request to extend the Big Mountain Village for 24 months, expiring on March 5, 2015 based on the findings of fact in the staff report.

Councilor Hildner asked if they were compromising any resource protection if they allow this and Planner Compton-Ring said their knowledge has increased since this plan was put together, so standards are stricter now. Councilor Hildner said if they don't extend this preliminary plat they may have the opportunity to increase water quality protection. Councilor Hildner asked if there is a stability difference in man-made slopes versus natural slopes and Planner Compton-Ring said she did not know. Councilor Mitchell said he thinks that mainly this has come before them because of economic downturns in the real

estate market and that has spurred the request for an extension. Deputy Mayor Kahle asked and Planner Compton-Ring said building setbacks would increase from 25' to an additional 50' to 100' more under the new standards.

Deputy Mayor Kahle opened the public hearing.

Dan Graves, Whitefish Mountain Ski Resort/Winter Sports, said he'd like to address The Village and The Glades preliminary plats together. He said the real estate market crashed and they already had two preliminary plats in motion. He said unless you are a large volume resort the financial stability is tenuous. They have grown 24% in the past 5 years. The forward momentum they've gained could stop if they had to move forward on these plats. In 2006 the unit count went from 178 units to 55 and a large preserve was set aside. The cost of creating one of the phases is about \$700,000 to \$1.5 million because of the distance they have to pull utilities. The Glades will be primarily single family homes and that is the group hardest hit in these economic times. The Village plat is largely high density structures. The time is not right for it now either. He said they are trying to create new terrain, new lifts and expansions to their infrastructure. He said it doesn't mean that real estate development isn't important to the company. The Glades will be developed when the single family market improves. He said the real estate development is extremely important to the company. He said they employ over 500 employees each year. He doesn't want to have to put money into what could be a bad investment due to the real estate market right now.

Councilor Anderson asked and Dan Graves said he didn't participate in the Neighborhood Plan process. It occurred just before he was hired. Councilor Hildner asked about slope stability and Dan Graves said the slope stability will probably be improved in the village areas. The foundations of the new buildings will be strong retaining walls. Deputy Mayor Kahle said this would be the third extension and he wondered if they would be back in two years for another extension. Dan Graves said he wished he knew what would happen with the real estate market. He said Northern Lights has 18 lots and only 10 have sold. Single family lots are hard to sell. Councilor Anderson asked the difference between the Big Mountain Neighborhood Plan and what they are requesting on The Glades. Deputy Mayor Kahle asked that the Council wait and handle The Glades questions in the next public hearing.

Rebecca Norton, 530 Scott Avenue, said she appreciates that the ski resort is a major employer in the community. However, she would like to keep strict water protection principles in place when they are deciding this issue, as this is near the water supply.

Ben Cavin, 2130 Houston Drive, said he is a retired civil engineer who worked on water protection in his career. He agreed with Councilor Hildner on the opportunity to require better water quality protection. He thinks they should deny this extension and upgrade the standards for this plat. He said the City has water rights on First Creek which is right where these developments are. They need to think about the future growth in Whitefish, which is predicted to be 15,000 people and they need to think about providing water for them.

Doug Adams, 214 Rusty Spur Trail, said he was on the Council when these plats came to them all those years ago, and they were in compliance with the current regulations at that time. He said if this was already built out they wouldn't have regretted that they had passed it. You can't arbitrarily go in and add new conditions. They are an asset to the community and if it is built to high standards, which he believes it will be, it would be a good addition to the community.

Deputy Mayor Kahle closed the public hearing.

**Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve the request to extend the Big Mountain Village for 24 months, expiring on March 5, 2015, based on the findings of fact in the staff report.**

Councilor Sweeney said he doesn't think the applicant would necessarily try to build according to the preliminary plat design if they were to build today. He asked if the goal of the extension request was to avoid the expense and cost of a new preliminary plat application sometime in the future when they are ready to develop the lots. Dan Graves said he arrived in November 2006 and the village planning was well underway. He said they've realized they should develop the building at Ed & Mully's Restaurant, the core of Chairs 1 and 2. They've learned that development without a rock solid understanding of the marketplace is fraught with danger. In 2007 the company was \$10 million in debt. They've paid back \$9 million of it. He said they've been good stewards of the land and protect the water. He said the extension request is a real estate decision and it is bad timing to build right now. Councilor Sweeney appreciated the response and he thinks WSI is a good steward up there. He said when they decide it is time to develop something they will probably come back with a different plan anyway. Dan Graves said he thinks the different phases are still good plans, but their buildings concepts have changes since 2007. Deputy Mayor Kahle asked and Director Taylor said city building permits are not required on the mountain because it is not in the city limits.

**The motion passed unanimously.**

**6b. Consideration of a request by Dan Graves on behalf of Winter Sports Inc. for an extension to the Glades preliminary plat, phases 3-13 (p. 65)**

Planner Compton-Ring reported that Dan Graves of the Whitefish Mountain Resort is requesting a 24-month extension for The Glades, Phases 3-13 preliminary plat. Phase 1 was platted in 2003 and Phase 2 was platted in 2008. Phase 2 was subsequently vacated, at the request of the owner, in 2011. Phases 3-13 are still remaining.

The preliminary plat now contains 21 single-family residential lots, 135 townhomes and 22 cabins on 55.73 acres located south of the Base Lodge on Big Mountain. The preliminary plat was approved by the Flathead County Commissioners on March 22, 2005, and expires August 18, 2013.

This development is a residential subdivision with a combination of single family dwellings, townhouse and cabin-style units. The development stretches from the east near the Easy Rider chair (also known as Chair 9) and existing Glades subdivision, phase 1 to the west and south of the Base Lodge. Over 23 acres of the subdivision is maintained in open space along the stream and pond. Several new private roadways are proposed within the project including a loop road to the south of the Base Lodge and several cul-de-sacs. All roadways meet the city's private road standards; the project is served by the Big Mountain Water Company and the Big Mountain Sewer District.

*Change in Standards:*

This subdivision was approved prior to the 2006 Big Mountain Neighborhood Plan, Water Quality Protection regulations and current subdivision regulations. Planner Compton-Ring gave a summary of phases and their relationship to the 2006 Neighborhood Plan.

Below is a summary of other pertinent items that have changed related to this preliminary plat:

- Most of the development is setback from the stream. The buffer of 125-feet with a 10-foot setback is generally being met with the project. The regulations provide the possibility to reduce buffers through averaging and enhancement, but the buffer could be no less than 50-feet.
- There are a series of wetlands in this subdivision. Again the buffer of 125-feet with a 10-foot setback is being met in some areas of the preliminary plat, but large portions of Phases 3, 4 and 7 are located within the buffer. Similar to streams, wetland buffers could be averaged provided buffers are no less than 50-feet.
- Some of the lots exceed 10%, requiring a geotechnical reconnaissance to determine whether or not further geotech review is warranted. Staff could not locate any geotechnical reports associated with the preliminary plat.

Of the eleven remaining phases of this preliminary plat, Phase 4 is the location of the current North Valley Clinic, Phases 2, 11 and 13 were removed from the neighborhood plan and Phases 8, 9, 10 and 12 are located wholly within the area designated as Haskill Creek Preserve. The Big Mountain Neighborhood Plan describes the Haskill Creek area:

“The Haskill Creek drainage below the Day Lodge is designated open space on the master plan. It is anticipated that this drainage will be utilized for hiking, walking, biking and ski trails. Structures other than resort related facilities supporting recreational activities or utilities are not anticipated within this green belt. The green belt varies from approximately 250-feet to 900-feet from either side of the streambed.”

Only Phases 3, 6 and 7 are located within the Neighborhood Plan as Development Pods ‘P’ and ‘R’.

Finally, this development lies in the upper reaches of 1<sup>st</sup> Creek, which is effectively the main channel of Haskill Creek. The confluences with 2<sup>nd</sup> Creek and 3<sup>rd</sup> Creek are a short distance downstream. The City of Whitefish has water rights on 1<sup>st</sup>, 2<sup>nd</sup> and 3<sup>rd</sup> Creeks and municipal water is currently drawn from 2<sup>nd</sup> and 3<sup>rd</sup> Creeks. The 1<sup>st</sup> Creek water right has been utilized in the past and continues to be available for municipal water supply. It is therefore important to protect the water quality of 1<sup>st</sup> Creek from degradation by human activities.

A notice was mailed to adjacent land owners within 300-feet of the preliminary plat on February 1, 2013. A notice of the public hearing was published in the *Whitefish Pilot* on January 30, 2013. No comments have been received.

Staff has concerns with extending the entirety of The Glades preliminary plat since conditions have changed considerably since the plat was approved. Careful thought and consideration was put into the Neighborhood Plan, where development would be best located, the appropriate density and traffic circulation patterns. As the Neighborhood Plan was adopted as a part of the City’s Growth Policy, it makes sense to honor the planning work and approval the Council gave in 2006 with this extension request.

Staff recommends the Council approve extension of portions of the preliminary plat consistent with the Big Mountain Neighborhood Plan (phases 3, 6, and 7) for 24 months, expiring on March 5, 2015, based on the findings of fact in the staff report.

Councilor Anderson asked about the development of the Neighborhood Plan. Planner Compton-Ring said she started working for the City in 2005 and at that time the applicant had just proposed a plan to build a hotel in the vicinity of The Bierstube; and that plan complied with the Overall Development Plan (ODP) that had been approved by the County. Then the community decided ODP developed in the early 1990s wasn't adequate for the community, and that is when they created the Neighborhood Plan. Councilor Anderson asked and Planner Compton-Ring said WSI was the applicant and created the Neighborhood Plan. Councilor Anderson asked if the applicant was now asking to scrap the Neighborhood Plan and Planner Compton-Ring said no. Staff is recommending that the portions that are consistent with the Neighborhood Plan get extended and she believes the applicant is in favor of it. Deputy Mayor Kahle asked if the Council had the discretion to extend certain phases and not others and Attorney VanBuskirk said they do. Councilor Hildner asked about Phase 6 which most closely impacts First Creek and doesn't have the setbacks which would protect the water. Planner Compton-Ring said Phase 6 predates 2004 and any water protection regulations.

Deputy Mayor Kahle opened the public hearing.

Dan Graves said they were agreeing with staff's recommendation to utilize phases 3, 6 and 7 in the plat. There is water along the Chair 9 area and along Haskill Preserve so it isn't appropriate to build structures there. He said they would agree to the three Phases and that is what he would like to formally request the extension on. Councilor Mitchell asked and Planner Compton-Ring said staff agrees. Councilor Anderson asked and Planner Compton-Ring said staff is recommending approval of Phase 3, which is now called Phase 4, and Phases 6 and 7.

Ben Cavin, Houston Point Drive, said the water on the mountain is very important. He knows Mr. Graves is not ready to move on it now. He proposed that they deny the request and when Mr. Graves is ready to proceed he can submit new documentation with what he really wants to do.

Deputy Mayor Kahle closed the public hearing.

**Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to approve an extension to the Glades preliminary plat, phases 3, 6 and 7, of approximately 40-60 units, adopting the findings of fact in the staff report.**

Councilor Hildner said Phase 6 of the Glades concerns him most because the creek runs through here. He said that the water source is fragile and important and needs to be protected. This is the opportunity to provide a sufficient buffer along Haskill Creek. Councilor Mitchell said everything but lots 56 and 57 seem pretty well setback from the creek and Planner Compton-Ring agreed. Councilor Hyatt asked if they could just remove those two lots which are two condos. Dan Graves said he would be happy with that. Deputy Mayor Kahle said he fears on-the-fly re-design. He didn't know if they had options. He noted that there is a substantial cost to a preliminary plat application and that would be cumbersome. Attorney VanBuskirk said this plat doesn't expire until August so they could continue the hearing and sit down with the applicant to develop a specific proposal for consideration by the Council. She said they can't place additional conditions or standards on an existing preliminary plat that has already been approved.

**Councilor Hildner asked and Councilor Mitchell and the second agreed to withdraw their motion.**

**Councilor Mitchell offered a motion, seconded by Councilor Hyatt, to continue the public hearing and have Dan Graves and the City get together to work on a proposal for Council's consideration. The motion passed unanimously.**

Manager Stearns clarified that they are talking about lots 55 and 56 in the buffer area; and the road that serves them, in addition, is well within the buffer area. He recommended that all should be considered in their alternate proposal. Council clarified with staff that the proposal will come back to the Council at their second meeting in March.

## **7. COMMUNICATIONS FROM CITY MANAGER**

### **7a. Written report enclosed with the packet. Questions from Mayor or Council? (p. 82)**

Councilor Mitchell said he would be open to a 5<sup>th</sup> Monday meeting in April with Columbia Falls and the County. Manager Stearns said he'll give them more details as he gets them. Councilor Mitchell asked about the Whitefish Housing Authority houses and Manager Stearns said he doesn't think the consultant gave a specific recommendation on the two small houses; the Housing Authority is still deciding on how to proceed with them. Councilor Hyatt said the new pharmaceutical drop box is at the Emergency Services Building and he wondered if there was going to be advertising. Manager Stearns said Mayre Flowers is working with the City's utility billing to see about an insert.

### **7b. Other items arising between February 13<sup>th</sup> and February 19<sup>th</sup>**

City Manager Stearns said at the March 4<sup>th</sup> meeting the work session will be with Kimerly-Horn, the parking consultants. Councilor Mitchell asked when it will come to Council and Manager Stearns said once the consultants complete their final report he thinks the next step would be to schedule a public hearing when the Council will make their determination of whether to proceed with either surface parking or a parking structure along with the new city hall. He said subsequent decisions will follow, but in his mind, Council's first decision will be to make that parking decision.

Manager Stearns said HB483 would allow local health boards to require inspections of septic systems prior to property transfers. The County Health Board would make that decision. He said they were asked to write a letter of support for this bill. He sent a copy of the bill to the Councilors. The letter of support would have to go out tomorrow, so he would like their input. Councilor Mitchell asked about the Flathead County Septic Board and Manager Stearns said they didn't show up at the hearing, so he doesn't know what they think. Manager Stearns said that if Flathead County chose to enact the regulations it would primarily affect the people in the donut areas. Councilor Mitchell said he isn't opposed to it, but without support or input from the County he couldn't support it. Councilor Sweeney said the proposed legislation only applies to counties that choose to utilize it. It doesn't require them to do anything. He thinks they ought to support it. Deputy Mayor Kahle said he sits on the Wastewater Committee and they face a septic leachate issue in Whitefish Lake. He said if they could deal with it during a transfer of ownership then it would be a good time to inspect and analyze septic systems. Councilor Hildner said he is in support of this because if the County chooses they can use this opportunity to help protect water quality. Councilor Anderson agreed that it would give the County a tool if they choose to adopt it. Councilor Hyatt supported the idea of sending a letter.

Manager Stearns said the WCVB request would require an ordinance and asked if there was Council consensus to add it as an agenda item. The number of appointed positions would not increase, but could include those who live beyond the donut. A lot of people who own businesses live beyond the donut. Councilor Anderson asked and Manager Stearns said the members have to be owners or managers of businesses in good standing with the WCVB. The Council indicated consensus to add this as an agenda item with the caveat that only people who live in Flathead County could serve as committee members.

**7c. Resolution No. 13-03; A Resolution approving Amendment No. 4 to the City's Flexible Benefit Plan (Cafeteria Plan) (p. 86)**

Manager Stearns said Section 125 of the Internal Revenue Code allows governmental units to enact an employee benefit often called Cafeteria Plans whereby the employees are allowed to set aside some of their income from the City for specified uses such as known medical expenses, dependent care (e.g. day care), and health savings accounts using pre-tax dollars. Thus, the employee reduces his or her out of pocket costs for such expenses by the amount of income tax dollars saved in reducing his or her Adjusted Gross Income (AGI).

Cafeteria Plans involve contributions only from the employee; the City of Whitefish does not contribute any funds to the plan. The third party administrator for the Flexible Benefits Plan, Peak1 Administrators of Idaho, has forwarded an amendment to the City's plan document related to reducing the maximum amount of employee contribution from \$3,000.00 per year in the past to \$2,500.00 beginning in 2013 to comply with new federal health care regulations.

**Councilor Hildner offered a motion, seconded by Councilor Hyatt, to approve Resolution No. 13-03; A Resolution approving Amendment No. 4 to the City's Flexible Benefit Plan (Cafeteria Plan). The motion passed unanimously.**

**8. COMMUNICATIONS FROM CITY ATTORNEY**

**8a. Consideration of letting the prosecution contract with Hedman, Hileman, and Lacosta extend for two more years or giving notice to terminate the contract after June 30, 2013 (p. 109)**

City Attorney VanBuskirk gave the staff report. Since 1991, the law firm of Hedman, Hileman & Lacosta, PLLP (Law Firm) has provided prosecutorial services on behalf of the City primarily before the Whitefish Municipal Court. In 2007 the City of Whitefish contracted with the Law Firm on an hourly basis for legal services, based on their 2007 hourly rates, with a term of four years. The Whitefish Police Department expressed its satisfaction for the professional nature of the Law Firm's prosecutorial services and desire to continue the Law Firm's Contract.

City staff respectfully recommends that the City Council approve the two-year renewal of the Contract for Prosecution Services by the Law Firm for FY 2014 and FY 2015, at the same annual flat fee of \$90,000 for legal services and \$3,600 for costs and expenses, with the Council's authorization for City staff to negotiate the terms for the renewal and Chuck Stearns, City Manager, to execute the two-year renewal on behalf of the City.

Councilor Mitchell asked and Attorney VanBuskirk said the flat fee will remain the same. He asked and Chief Dial said he works with the prosecution and they are pleased with the relationship even though there are pros and cons to every relationship.

**Councilor Anderson offered a motion, seconded by Councilor Hyatt, to approve the two-year renewal of the Contract for Prosecution Services by the Law Firm for FY 2014 and FY 2015, at the same annual flat fee of \$90,000 for legal services and \$3,600 for costs and expenses, with the Council's authorization for City staff to negotiate the terms for the renewal and Chuck Stearns, City Manager, to execute the two-year renewal on behalf of the City. The motion passed unanimously.**

## **9. COMMUNICATIONS FROM MAYOR AND CITY COUNCILORS**

**9a. Standing budget item - None.**

**9b. Discuss negotiations with Averill Hospitality on the possibility of constructing a boutique hotel on City owned land at 3<sup>rd</sup> Street and Central Avenue and designate City negotiators (p. 137)**

Manager Stearns said Averill Hospitality and Brian Averill sent a letter requesting consideration of building a boutique hotel. Attorney VanBuskirk felt that any committee they appoint by resolution becomes subject to the open meetings law and this is a proprietary situation. The negotiations can be in private, but any agreement has to be open to the public. Instead, they could treat the process through an informal group, similar to the real estate committee, and invite a couple Councilors, selected by the Council, to meet with staff on private real estate matters. He suggested they add one member to the current real estate committee which currently is Frank Sweeney, Mayor John Muhlfeld, Manager Stearns and Finance Director Knapp for negotiations with Averill Hospitality. He said it was anticipated that these would be private negotiations coming forward with some type of proposal to the Council. The second issue is why they would negotiate only with Averill Hospitality or should they consider putting it out for a bid for proposals. State law addresses disposal of municipal property in urban renewal areas in Section 7-15-4263, MCA, and those details are in the packet on page 139 and 140. It says property may be disposed only under certain procedures or through the RFP process. He said that Missoula usually does the RFP process and Billings goes both ways. Manager Stearns said the loss of parking is important as they heard expressed tonight. He said the Averills propose providing parking where the Calvary Church and JCCS properties are across from the Post Office. If that went into surface parking it still doesn't replace the parking on Central Avenue. He said the City would still need additional parking; possibly a structure at the new City Hall site or the lot on Spokane Avenue and 2<sup>nd</sup> Street. He said on any small site it is difficult to build a hotel if you have to deal with the parking, laundry, marketing and sales. A lot of the Averill hotel infrastructure could be offsite at the Lodge at Whitefish Lake.

Councilor Hyatt said if they were going to add another individual he would recommend Deputy Mayor Kahle. Councilor Mitchell said he thinks they need to listen to the Averills and see what they have to offer. Deputy Mayor Kahle said he thinks there is a reason why they are considering a sale of the parking lot only to Averill Hospitality—and that is because they have off-site service ability. Attorney VanBuskirk said according to state law the Council has two options; they can establish reasonable procedures as the City Council shall prescribe to negotiate with Averill Hospitality, or follow procedures regarding public notice to invite other proposals. Councilor Anderson asked what reasonable procedure they could apply and Manager Stearns said that will be determined by Council; but could

include items like having the city property appraised and agree not to sell it below fair market value as determined by the appraisal. The committee would work on other items that would come back before the Council; it is possible that the committee and Council decides that those best be heard during a public hearing. He thinks it would work best for the procedures to start in committee and brought back for final determination from the Council. Councilor Hildner said they need to listen to proposals, but they need absolute transparency in any kind of proposal. Councilor Mitchell said they should see if the real estate committee and parties involved can come to a minor agreement before they start a public process.

**Councilor Sweeney offered a motion, seconded by Councilor Anderson, to appoint Deputy Mayor Kahle to the real estate committee to negotiate on this project with Averill Hospitality, and to proceed with adoption of reasonable procedures according to Section 7-15-4263, MCA. The motion passed unanimously.**

Councilor Anderson said transparency is going to be very important. The downtown merchants have a business interest in this property, too. Manager Stearns said after they come up with reasonable procedures they could have a public hearing on it. Councilor Hildner asked if they would move into quasi-judicial territory. Attorney VanBuskirk said if individuals wish to approach the real estate committee it can be vetted by the real estate committee. She noted that a sale or least of City property takes a 2/3 vote of the Council.

**9c. Letter from Bayard Dominick representing Whitefish School District #44 requesting that two hour parking on Pine Avenue near the high school be changed to faculty parking during the term of the high school construction (p. 143)**

Manager Stearns said as they get under construction of the high school there will be constrained circulation and traffic issues and the high school is requesting the parking change. The school will pay for the replacement of the parking signs.

**Councilor Hyatt offered a motion, seconded by Councilor Sweeney, to approve two hour parking on Pine Avenue near the high school be changed to faculty parking during the term of the high school construction, with the high school paying for the new parking signs. The motion passed unanimously.**

**9d. Reconsider decision not to place the overhead utilities on the East 2<sup>nd</sup> Street reconstruction project underground (p. 147)**

Deputy Mayor Kahle said he is a member of the Resort Tax Monitoring committee and this is an issue they will continue to face. The City is doing a major reconstruction of East 2<sup>nd</sup> Street and undergrounding of the power was not required due to cost. He felt it should be a policy discussion on undergrounding utilities. Private developers are required to underground their utilities. He thought the City should live by the same guidelines. Councilor Mitchell asked about Sixth Street and Director Wilson said it wasn't undergrounded when they reconstructed that street; the Council decided that it was too expensive. Director Wilson said on First and Third Street they did put some of the utilities underground in conjunction with the downtown infrastructure project.

Doug Reed, 520 Somers Avenue, represented the Resort Tax Monitoring Committee. He said they had estimates on what it would cost to bury the power and it would be \$330,000 to bury power

underground to each house. Councilor Mitchell asked and Director Wilson said he didn't have it in front of him but the entire project is over \$2 million. The project uses resort tax dollars except for \$140,000 of CTEP funds that can be used on the trail. Doug Reed said they talked about it and understand the benefits of burying the power, but decided not to because of the cost. Councilor Hyatt asked if they are using Resort Tax on the Highway 93 W. project and Director Wilson said it is only used for lighting and trees. Councilor Anderson asked what the policy is and Manager Stearns said this is reconstruction, not raw development. Historically, the policy has been not to put the utilities underground; he was in favor of and encouraged staff to consider putting the utilities underground on Central Avenue. He said if they are going to require underground utilities there will be additional costs and Resort Tax projects will get delayed because of doing this also. Deputy Mayor Kahle said a lot of the projects he has been involved with, even if they were already involved with utilities, required him to underground the utilities. The development community was given a litany of reasons why this was required. If the policy is good for private development, then it is good for the City. He thought it should at least be looked at on a case by case process.

Director Wilson said there is not a written policy. Their first resort tax reconstruction process goes back to 1996 and the original committee was frugal and didn't even want to do sidewalks or trees. Councilor Anderson said if the policy is that the City abides by the Subdivision Regulations Section 12-4-29A, then perhaps requirements on developments have been more than this statute prescribes. The question is whether they want the City to spend more money or not. He said perhaps what should really happen is when a developer comes in they can refer to this statute and put more thought into it. Councilor Sweeney asked and Director Wilson said there will be underground utilities down to Karrow Avenue on Highway 93 West. He said the City expressed a sentiment to underground utilities and Senator Zinke helped get construction funds. Deputy Mayor Kahle asked why all new utilities should be placed underground; what is the benefit? Are they going to stand behind it or not? Councilor Sweeney said there is no better time to do it than when they are doing these big projects. It is important for safety and long term planning. Councilor Hildner asked the committee's take on future undergrounding of utilities. Doug Reed listed esthetics, safety and dependability as benefits of underground utilities; he would like to do it if the cost is right.

Chris Schustrom, 504 Spokane Avenue, who also serves on the Resort Tax Monitoring Committee, agreed with Doug Reed. The Second Street project is too far along to make it a requirement, but he agrees that utilities should be placed underground. Director Wilson said \$300,000 is the cost of a typical 2-block length of a standard street. A cost like that has an affect. Every street in town needs reconstruction or needs chip sealing and overlay. Councilor Hyatt asked and Deputy Mayor Kahle said they need to move forward with the East Second Street project because it is already in process. Director Wilson said the engineers have been focused on other things so they could move forward with a re-design for underground utilities for only about \$10-12,000. Councilor Sweeney asked if there was any support from the utility companies and Director Wilson said it is not the typical case. Deputy Mayor Kahle said he would like to see undergrounding considered for all future City projects. Director Wilson said when they bring new proposals to the Council they could bring a proposal with both costs broken down. Manager Stearns said there is a difference between raw land development and the retro-fit of existing utilities.

Councilor Hildner said they should continue with East Second Street as it is, but should include the undergrounding option in all future City reconstruction and construction projects. Councilor Mitchell said he wants the City to be held to the same standards as developers. Deputy Mayor Kahle asked and Director Wilson said they wouldn't be able to put utilities underground on the east edge of the

project for technical reasons or along Cow Creek. Councilor Sweeney said they should have a public hearing and policy decision on whether the community thinks it is worth spending the extra 15-20% to underground utilities. Councilor Anderson said he is okay with the project moving forward as it is. Councilor Hyatt said they need to review it as a Council. He is in favor of putting them underground. Councilor Hildner said Second Street should go as designed and then, as a matter of course, they should consider the first priority to be undergrounding of utilities.

**Councilor Hyatt offered a motion, seconded by Deputy Mayor Kahle, to underground the utilities on E. Second Street excluding the individual services, with Option 1 plus engineering, as shown on packet page 147.**

Councilor Hildner said if they do that there will still be the same number of power poles, so he isn't sure it solves a whole lot of problems. Deputy Mayor Kahle said if someone builds on Second Street then they would have that opportunity to underground their utilities. Councilor Mitchell asked and Director Wilson said the price stands with the exceptions he mentioned. Councilor Sweeney asked what would look different on Second Street and Director Wilson said there wouldn't be power lines running parallel to the road. He said he lives in that neighborhood, but doesn't see any benefit for the \$300,000. He said safety and dependability are advantages of running utilities underground. Councilor Hyatt said he is looking at the 50 year plan.

**The motion failed on a tied vote with Councilors Mitchell, Kahle and Hyatt voting in favor and Councilors Anderson, Hildner and Sweeney voting in opposition.**

**9e. Select one elected official member to participate on the selection committee for the Highway 93 West Corridor Plan consultant.**

**9f. Select one or two elected officials to participate on the Hwy 93 West Corridor Plan steering committee**

Deputy Mayor Kahle said items 9e and 9f could be combined. Director Taylor said March 18-22 will be the week they interview the consultants. Manager Stearns said Mayor Muhlfeld told him that he would serve on this committee, but not on the steering committee. Councilor Mitchell said he would be willing to serve on either.

**Councilor Anderson offered a motion, seconded by Councilor Hyatt, to appoint Mayor Muhlfeld to the consultant selection committee and Councilors Sweeney and Mitchell to the Steering Committee. The motion passed unanimously.**

**9g. Email and notice from Garrick Hansen regarding his property at the corner of 6<sup>th</sup> Street and Baker Avenue (p. 159)**

Manager Stearns said they have submitted this to the Montana Municipal Interlocal Agency for adjudication and we are waiting for their response. Councilor Sweeney said he felt like the property owner will have a full opportunity to develop his lots. Councilor Mitchell asked and Director Taylor said every lot is allowed up to 5,000 square feet per lot or 15%, whichever is greater, by the reasonable use exemption. City Attorney VanBuskirk said the City prepared copies of the documents he requested but he has not been in to pick those up.

**9h. Letter from Sandra Alessi regarding City Cemetery and cremations (p. 162)**

Councilor Mitchell asked if this would be sent to the cemetery committee and Manager Stearns said it would; and noted any new expenditure will have to go through the budget process. Deputy Mayor Kahle said all options are being considered by the Cemetery Committee.

Councilor Mitchell said he is very sad that DePratu Ford is leaving Whitefish. That is 40 jobs we are losing in Whitefish. Councilor Sweeney said he isn't sure the City was ever given the opportunity to work with them about leaving. He thinks that needs to be really clear.

**10. ADJOURNMENT** (Resolution 08-10 establishes 11:00 p.m. as end of meeting unless extended to 11:30 by majority)

Deputy Mayor Kahle adjourned the meeting at 10:20 p.m.

\_\_\_\_\_  
Deputy Mayor Kahle

\_\_\_\_\_  
Jane Latus Emmert, Recording Secretary  
Attest:

\_\_\_\_\_  
Necile Lorang, City Clerk

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**ORDINANCE NO. 13-\_\_\_\_**

**An Ordinance of the City Council of the City of Whitefish, Montana, amending Whitefish City Code Title 2, Chapter 12, regarding the membership qualifications for the Convention and Visitor Bureau Committee.**

WHEREAS, the City Council established the seven-member Convention and Visitor Bureau Committee as a standing committee by Ordinance No. 06-05, adopted on March 20, 2006; and

WHEREAS, the City Council expanded the membership of the Convention and Visitor Bureau Committee from seven to up to nine members on July 2, 2012, by Ordinance No. 12-10; and

WHEREAS, Section 2-12-3(A) provides that all nine members of the Convention and Visitor Bureau Committee shall reside within the City of Whitefish zoning jurisdiction; and

WHEREAS, the Convention and Visitor Bureau Committee desires to amend Section 2-12-3(A) and the Committee's By-Laws to allow up to two (2) members of the Convention and Visitor Bureau Committee to reside in Flathead County, as long as the member has an ownership interest or senior management position with a business located within the City of Whitefish zoning jurisdiction; and

WHEREAS, at a lawfully noticed public hearing on March 4, 2013, the Whitefish City Council received an oral report from the members of the Convention and Visitor Bureau Committee, invited public input, and approved the requested amendment to Section 2-12-3(A); and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to accept the requested amendment.

NOW, THEREFORE, be it ordained by the City Council of the City of Whitefish, Montana, as follows:

Section 1: Section 2-12-3(A) is hereby amended in its entirety to provide as follows:

A. Appointment; Compensation: The committee shall have up to nine (9) members. Members shall be appointed by the city council. ~~All~~ **At least seven (7) members shall reside in the city of Whitefish zoning jurisdiction. Two (2) members may reside in Flathead County, but outside the city of Whitefish zoning jurisdiction, as long as the member has an ownership interest or managerial position with a business located within the City of Whitefish zoning jurisdiction.** The city council shall endeavor to appoint members who represent one of the following business categories, and that have

broad experience in and a current understanding of the following types of businesses:

- Finance
- Large lodging properties
- Restaurant and bar business
- Retail businesses
- Small lodging properties
- Transportation business
- Whitefish golf course
- Whitefish Mountain Resort

The city clerk shall make a notation of a member's representation category **and a member's residence** to facilitate appointment to categories not represented. However, the city council shall be entitled to appoint those individuals that it determines most qualified, regardless of representation category. The city council may appoint one of its members to serve as an ex officio (nonvoting) member of the committee. Committee members shall receive no compensation.

Section 2: All other provisions of Title 2, Chapter 12, shall remain unmodified.

Section 3: The Bylaws of the Convention and Visitor Bureau Committee shall be amended accordingly.

Section 4: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 5: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, ON THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

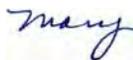
ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk

# Staff Report

February 27, 2013

To: Mayor Muhlfeld and City Councilors

From: Mary VanBuskirk, City Attorney 

Re: Whitefish Convention and Visitors Bureau requested  
Amendment to Board's membership qualifications



## Introduction/History.

Jan Metzmaker, Director of the City of Whitefish Convention and Visitors Bureau (WCVB), sought the Council's thinking about a change in the residency requirements for perhaps two of its committee members during Public Comment at the February 18, 2013 City Council meeting. At the end of the meeting, during the time set for Councilors' Comments, City Councilors discussed the current residency requirement, which requires all nine members of the WCVB reside within the Whitefish zoning jurisdiction. The Council requested that staff prepare an ordinance amending the residency requirements for two of the WCVB members for its consideration at the next Council meeting set for March 4, 2013.

## Current Report.

Staff prepared two options for the Council. The first option would allow up to two WCVB members to reside outside of the City's zoning jurisdiction as long as the member was a resident of Flathead County. The second option provides no residency requirements. Either option would require the member to have an ownership interest or managerial position with a business located within the Whitefish zoning jurisdiction. All appointments to the WCVB would continue to be made by the City Council.

The first option requires Flathead County residency:

- A. Appointment; Compensation: The committee shall have up to nine (9) members. Members shall be appointed by the city council. ~~All~~ **At least seven (7) members shall reside in the city of Whitefish zoning jurisdiction. Two (2) members may reside in Flathead County, but outside the city of Whitefish zoning jurisdiction, as long as the member has an ownership interest or managerial position with a business located within the City of Whitefish zoning jurisdiction.** The city council shall endeavor to appoint members who represent one of the following business categories, and that have broad experience in and a current understanding of the following types of businesses:

The second option provides no residency requirement:

- A. Appointment; Compensation: The committee shall have up to nine (9) members. Members shall be appointed by the city council. ~~All~~ At least seven (7) members shall reside within the city of Whitefish zoning jurisdiction. Two (2) members may reside outside the city of Whitefish zoning jurisdiction, as long as the member has an ownership interest or managerial position with a business located within the Whitefish zoning jurisdiction. The city council shall endeavor to appoint members who represent one of the following business categories, and that have broad experience in and a current understanding of the following types of businesses:

Both options would require the City Clerk to keep track of a member's residency:

The city clerk shall make a notation of a member's representation category and a member's residence to facilitate appointment to categories not represented. However, the city council shall be entitled to appoint those individuals that it determines most qualified, regardless of representation category. The city council may appoint one of its members to serve as an ex officio (nonvoting) member of the committee. Committee members shall receive no compensation.

As explained in Director Jan Metzmaker's correspondence of February 26, 2013, the key consideration for the WCVB Board is the location of the business. If an individual owns or manages a business in Whitefish, the Board felt that individual would have a vested interest in insuring the success of the member's business and should have voice in the marketing for Whitefish businesses as a member of the WCVB.

### **Recommendation.**

City staff respectfully recommends that the City Council consider the WCVB's request and approve one of the proposed amendments to allow for individuals with an ownership interest or managerial position with a business located within the Whitefish zoning jurisdiction to be eligible for membership with the WCVB, either with or without Flathead County residency.

# WHITEFISH

• MONTANA •

CONVENTION & VISITORS BUREAU

February 26, 2013

To: Whitefish City Council  
From: Whitefish CVB  
Subject: By Laws Change Request

You have in your packet a by laws change requested by the Whitefish Convention and Visitors Bureau Board of Directors. Presently, a board member must reside within the zoning jurisdiction, however, some of our members have questioned this qualification. If you own or manage a business within the zoning jurisdiction, and live outside, you cannot serve on the Board.

Historically, the residency requirement was the result of combining the WCVB Bed Tax funds with the Flathead CVB's. Although it seemed like a good idea on paper, it proved to be detrimental to the City's marketing efforts. Those involved in the WCVB felt those outside Whitefish were not equitably marketing the City. The Council intervened and created by laws and articles of incorporation to create a new Whitefish CVB that would market Whitefish only. The new organization required Board members to reside in the zoning jurisdiction.

A strong majority of the board feels that someone who owns or manages a business in Whitefish has a vested interest in insuring the success of the organization. Their businesses are their livelihood and they should have a voice in the marketing of the WCVB. By limiting the number to up to two directors, there should be no concern about outside interests determining the direction of the organization. With a requirement that the prospective board member reside in Flathead County, an absentee owner who might not be available to attend meetings will not burden the WCVB with quorum issues.

In polling the board, a total of 6 were in favor of amending the by laws. One voted against. 3 were in favor of residing anywhere, while 3 were in favor of limiting board members to Flathead County. We leave the decision in your capable hands. Two board members were out of town.

We appreciate your consideration of this request. I will be at the Monday, March 4 meeting to answer any questions or address any concerns you might have.

Thank you,

Jan Metzmaker, Director

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**ORDINANCE NO. 13-\_\_**

**An Ordinance of the City Council of the City of Whitefish, Montana, amending the Zoning Regulations in the Whitefish City Code to add Title 11, Chapter 3, Section 35, regarding short term rentals and performance standards, and define Residential, Short Term Rental, in Section 11-9-2.**

WHEREAS, the City of Whitefish initiated an effort to amend the Zoning Regulations by preparing a new Title 11, Chapter 3, Section 35, Special Provisions, to address short term rentals and performance standards, and define Residential, Short Term Rental in Section 11-9-2, Definitions, attached as Exhibit "A"; and

WHEREAS, the City currently has ordinances and codes in effect for short term rentals and the proposed amendments were prepared to clarify regulations and establish performance standards for the public to further improve performance, neighborhood compatibility, and health and safety; and

WHEREAS, the proposed amendments address safety and enforcement issues and establish development requirements and restrictions for short term rentals, which will make it easier for the City to administer and enforce existing regulations; and

WHEREAS, the proposed amendments would not change where short term rentals are allowed in the zoning regulations; and

WHEREAS, the considerations in Section 11-7-10( E) are either met or are not applicable; and

WHEREAS, at a lawfully noticed public hearing on February 21, 2013, the Whitefish City-County Planning Board received an oral report from Planning staff, reviewed Staff Report WZTA-13-01, dated February 21, 2013, invited public comment, and thereafter voted to recommend approval of the proposed text amendments as revised, attached as Exhibit "A", with the supporting findings of fact; and

WHEREAS, at a lawfully noticed public hearing on March 4, 2013, the Whitefish City Council received an oral report from Planning staff, reviewed the Staff Report WZTA 13-01, dated February 21, 2013, invited public input, and approved the text amendments, attached as Exhibit "A"; and

WHEREAS, it will be in the best interests of the City of Whitefish and its inhabitants to adopt the proposed text amendments.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whitefish, Montana, as follows:

Section 1: All of the recitals set forth above are hereby adopted as Findings of Fact.

Section 2: Staff Report WZTA-13-01 is hereby adopted as Findings of Fact.

Section 3: Whitefish City Code Section 11-3-35, SHORT TERM RENTAL STANDARDS, added as provided in the attached Exhibit "A", is hereby adopted.

Section 4: Whitefish City Code Section 11-9-2, DEFINITIONS, Residential, Short Term Rental, added as provided in the attached Exhibit "A", is hereby adopted.

Section 5: In the event any word, phrase, clause, sentence, paragraph, section or other part of the Ordinance set forth herein is held invalid by a court of competent jurisdiction, such judgment shall affect only that part held invalid, and the remaining provisions thereof shall continue in full force and effect.

Section 6: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, THIS \_\_\_\_\_ DAY OF \_\_\_\_\_, 2013.

\_\_\_\_\_  
John M. Muhlfeld, Mayor

ATTEST:

\_\_\_\_\_  
Necile Lorang, City Clerk

## EXHIBIT "A"

### Whitefish City Code Title 11, Chapter 3 ZONING REGULATIONS - SPECIAL PROVISIONS

#### 11-3-35: SHORT TERM RENTAL STANDARDS

##### Short Term Rentals

Certain zoning districts such the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:

1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
4. Each unit shall meet the standards for off street parking found in §11-6.
5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.
6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.

9. The owner's (or local contact, if absentee per h above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
11. There will be no signage outside the unit advertising the short term rental of properties
12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.

**B. Violations.** Operating a short-term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1), that the property owner or listing agent, or both, knew the standards and zoning; and, (2), that the operator of the short term rental within city limits knew the duty to collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

## **Whitefish City Code Title 11, Chapter 9 ZONING REGULATIONS - DEFINITIONS**

### **11-9-2: DEFINITIONS**

**Residential, Short Term Rental:** The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty consecutive days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

**PLANNING & BUILDING DEPARTMENT**  
**510 Railway Street, PO Box 158, Whitefish, MT 59937**  
**(406) 863-2410 Fax (406) 863-2409**



March 4, 2013

Mayor and City Council  
City of Whitefish  
PO Box 158  
Whitefish, MT 59937

Re: Text Amendment – Short Term Rentals: WZTA 13-01

Honorable Mayor and Council:

**Summary of Requested Action:** This application is a request by the city of Whitefish for a zoning text amendment to create new Section 11-3-35, Short Term Rentals, to create standards for Short Term Rentals to clarify regulations and better address safety and enforcement issues, and to amend Section 11-9-2, Definitions, to provide a definition of Short Term Rentals.

**Planning Board Recommendation:** The Whitefish City-County Planning Board held a public hearing on February 21, 2013. Following this hearing, the Planning Board recommended approval of the amendments (8-1, Konopatzke voting in opposition) with a change to the definition of Short Term Rentals to make it ‘..less than thirty consecutive days..’ and adopted the supporting findings of fact in the staff report.

**City Staff Recommendation:** Staff recommended approval of the text amendment attached to the staff report.

**Public Hearing:** At the public hearing, three members of the public spoke. Ken Stein, 1495 Lion Mountain Drive addressed Monterra’s HOA’s efforts to curb illegal short term rentals. Jill Zignego, Five Star Rentals, generally supported the new regulations and asked that existing grandfathered properties be allowed to register. She also asked for a way for properties bordering resort districts to have an option to do short term rentals. Linda McCarthy, 432A Dakota, spoke and said she complied with all the requirements but had some concerns about taxes and costs. The draft minutes of the Planning Board hearing are included.

This item has been placed on the agenda for your regularly scheduled meeting on March 4, 2013. Should Council have questions or need further information on this matter, please contact the Whitefish City-County Planning Board or the Planning & Building Department.

Respectfully,

A handwritten signature in blue ink, appearing to read "David Taylor".

David Taylor, AICP  
Director

Att: Exhibit A, Planning Board recommendation, 2-22-13  
Draft Minutes, February 21, 2013 Planning Board Meeting

***Exhibits from 2-21-13 Staff Packet to Planning Board***

1. Staff Report, 2-21-13
2. Draft Code Amendment

c: w/att Necile Lorang, City Clerk

## Exhibit A

### Whitefish City County Planning Board Recommendation

#### 11-3-35 SHORT TERM RENTAL STANDARDS

##### Short Term Rentals

Certain zoning districts such the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

- A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:
1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
  2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
  3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
  4. Each unit shall meet the standards for off street parking found in §11-6.
  5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.
  6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
  7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
  8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.
  9. The owner's (or local contact, if absentee per h above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
  10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
  11. There will be no signage outside the unit advertising the short term rental of properties

12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.

B. **Violations.** Operating a short-term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1), that the property owner or listing agent, or both, knew the standards and zoning; and, (2), that the operator of the short term rental within city limits knew the duty to collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

### **11-9-2 Definitions**

Residential, Short Term Rental – The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty consecutive days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

**WHITEFISH CITY-COUNTY PLANNING BOARD  
MINUTES OF MEETING  
FEBRUARY 21, 2013**

**CALL TO ORDER AND  
ROLL CALL**

The regular meeting of the Whitefish City-County Planning Board was called to order at 6:00 p.m. Board members present were Rick Blake, Ken Meckel, Zak Anderson, Diane Smith, Chad Phillips, Ole Netteberg. Mary Vail was seated at 6:04 p.m. and Greg Gunderson was seated at 6:10 p.m. Dennis Konapatzke was present via telephone. Planning Director Taylor and Senior Planner Compton-Ring represented the Whitefish Planning & Building Department.

**APPOINTMENTS**

Planning Board Appointments:

a. Planning Board Chair

Blake moved and Smith seconded to appointment Ole Netteberg as Planning Board Chair. The motion passed unanimously.

b. Planning Board Vice-Chair

Blake moved and Netteberg seconded to appointment Ken Meckel as Planning Board Vice-Chair. The motion passed unanimously.

**APPROVAL OF MINUTES**

Blake moved and Smith seconded to approve the December 20, 2012 City minutes of the Whitefish Planning Board as submitted. On a vote by acclamation the motion passed unanimously.

**PUBLIC ITEMS NOT ON  
AGENDA**

No one wished to speak.

**OLD BUSINESS**

None.

**CITY OF WHITEFISH  
ZONING TEXT  
AMENDMENT REQUEST**

A request by the City of Whitefish to add Section 11-3-35, Short Term Rental Standards and amend Section 11-9-2, Definitions, clarifying and setting additional performance and enforcement standards for the use of residential property for rentals of less than thirty days.

**STAFF REPORT WZTA 13-  
01**

Planning and Building Director Taylor reported that this proposed new section under Special Provisions and the corresponding new definition will provide a framework so the public can more easily understand the development requirements and restrictions for Short Term Rentals. The amendments also provide performance standards so there will be less impact on adjacent long term residents, as well as tools to aid enforcement of illegal rentals.

Short term rentals, or vacation rentals, are commercial rentals of residential property for less than thirty days. Unlike a lot of resort

communities that are now struggling with the proliferation of short term rentals and their impacts, Whitefish was pro-active about specifying they be allowed only in certain districts when the zoning code was created. Short term rentals are allowed in resort zoning districts WRR-1, WRR-2, WRB-1, and WRB-2, Big Mountain zoning WBMV and WBMRR, and in the WB-2 and WB-3 commercial zones. Neighborhoods that allow short term rentals include Crestwood, Baypoint, Suncrest, Mountain Harbor, Iron Horse, Ptarmigan, Orchard Point, Whitefish Mountain Resort and surrounding areas, Whitefish Lake Lodge condos and vicinity, and the neighborhood around the Grouse Mountain soccer fields. Rentals of less than thirty days are illegal in standard residential zones such as the WR-1, WR-2, etc.

The code defines residential purposes as “the intent to use and/or the use of a room or group of rooms for the living sleeping, and housekeeping activities of persons on a permanent or semi-permanent basis of intended tenure of one month or more”, therefore rentals less than 30 days are considered a non-residential use and are subject to resort taxes and other regulations. The zoning code does not really have a specific section where you can find much information on short term rentals, although they are mentioned specifically as an allowed use in the resort residential and resort business zoning districts. Commercial zones such as the WB-2 and WB-3 permit them under the broad heading “hotels, motels, and other hospitality or entertainment uses.”

In 2011, a private individual applied for a code amendment to allow the creation of short term rental ‘overlay zones’ so that short term rentals might be allowed after a public process in confined areas of other zoning districts besides resort and commercial. The City Council did not approve that amendment, citing concerns with impacts on affordable housing and the erosion of traditional residential neighborhoods. These potential performance standards and enforcement tools were discussed as part of that process. After recent discussions with the City Manager and City Attorney, staff has now brought them forward on their own as a tool to better regulate existing and future short term rentals.

Vacation rentals are an alternative to hotels, motels, and bed and breakfasts, and are favored by many travelers as they provide kitchen facilities and extra room for families and larger groups. The rental of vacation homes is the fastest growing segment of the hospitality market serving the visitor industry. Some of that growth is due to the ease of internet marketing, the need for homeowners to cover increasing costs including property taxes and utilities on their second homes, as well as the growing demand for lodging alternatives outside of traditional hotel/motel offerings.

While the benefits of short term rentals include expanded accommodation options for visitors, added resort and bed tax revenues, additional income for second home owners, and improved property values, there are some issues that they create. Short term rental impacts include:

- Degeneration of traditional family-oriented neighborhoods
- Potential for increased noise and traffic disturbances in residential neighborhoods
- A possible reduction in available on-street parking
- Possible reduced pool of available rental property and affordable housing
- The possibility that housing prices could be driven up in certain areas, forcing out local families

The proposed performance standards address many of the major concerns. Below are comments about the specific sections, the full text of which is below under Recommended Amendments.

## **RECOMMENDED AMENDEMENTS TO TITLE 11**

### **11-3-35 SHORT TERM RENTAL STANDARDS**

#### **Short Term Rentals**

Certain zoning districts such as the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

- A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:
1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
  2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
  3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
  4. Each unit shall meet the standards for off street parking found in §11-6. Currently, two spaces are required in most zones.

5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.
6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.
9. The owner's (or local contact, if absentee per h above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
11. There will be no signage outside the unit advertising the short term rental of properties
12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.

- B. **Violations.** Operating a short-term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1), that the property owner or listing agent, or both, knew the standards and zoning; and, (2), that the operator of the short term rental within city limits knew the duty to

collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

### **11-9-2 Definitions**

Residential, Short Term Rental – The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

Staff recommended that the Whitefish City-County Planning Board review the recommendations set forth in this staff report to add Section 11-3-35, Short Term Rentals and amend Section 11-9-2 Definitions, subject to the above findings, and transmit same to the Whitefish City Council with a recommendation for approval.

Phillips asked if a short term renter would have to sign a document stating they will comply with City Ordinances and Director Taylor said an agreement like that was the responsibility of the property owner. Netteberg asked if staff has had to go out and enforce any of these and Director Taylor said they get phone calls all of the time about people using homes in their neighborhoods for short term rentals. Director Taylor said Monterra was a culprit for a long time. Now they advertise a minimum of a 30 day stay. Vail asked and Director Taylor said Monterra is not in the short term rental zone. He said the City Manager is good about keeping track of rentals within the city limits because he is responsible for making sure the City collects resort tax.

### **PUBLIC HEARING**

The public hearing was opened to those who wished to speak on the issue.

Ken Stein, 1495 Lion Mountain Drive, said the Monterra HOA passed an internal memo to prohibit any rentals for less than 30 days. He said he knows some people rent for less than 30 days, but they are only renting for two weeks per month. Regulating that would be extremely difficult.

Jill Zignego, 5 Star Rentals, said she likes the idea of having some regulations. She has managed property rentals for 18 years. She said her owners only get 8-12 weeks per year as rentals. She said Monterra would be perfect for weekly rentals, but they set it up so they couldn't do it. She loves the idea of a local contact person in case of problems. She would like to see a grandfather situation for those who have had rentals around the lake for 40-50 years. She said Whitefish is a tourist town and people with extended families

need vacation rental homes. She said Whitefish needs those homes for the vacationers. She would love to see the border properties that are adjacent to Suncrest, for instance, if they meet the City's criteria, be allowed to also do short term rentals. She said the issue says it may affect affordable housing, but then it says it might raise prices because people will want to buy homes for rental use. It is confusing to state it both ways.

Linda McCarthy, 432A. Dakota Avenue, said she owns a home and it is zoned WRR1. She has a 1,700 square foot home and her taxes were 200/month when she built and they are now \$1000/month. She is retired and lives on a fixed income. She decided to rent her home out to meet the taxes. She pays resort tax, Montana Revenue tax and she has a City business license. She said she has turned down 30 families who want larger homes to rent so she passes them on to Jill Zignego. She said her 85 year old parents live with her. She might not be able to keep her home if she can't rent it out. She said she is between Baypoint and City Beach. She said there is a need for rentals like hers where families are welcome.

Meckle asked how she saw these regulations as being negative. She said it feels somewhat threatening—that the rules will get too stringent or fees will increase. Vail asked and Linda McCarthy said she rents her home out for about 8-10 weeks/year. She said she doesn't rent it in the winter because it gets too icy and dangerous. Vail asked if the neighbors rented and she said she is between two large homes—one has the proper zoning and the other doesn't. She said they hear the guests at Bay Point Resort sometimes, but she feels that this is a part of living in Whitefish that is fun. She said Canadians are great people and spend a lot of money here. She said doesn't think it is fair to generalize that the Canadians come here and cause trouble.

#### **PUBLIC HEARING**

No one wished to speak and the public hearing was closed.

#### **BOARD DISCUSSION**

Meckel asked if there was a transition period for enforcement. Director Taylor said it is up to the City Attorney and City Manager. Director Taylor said they will try to get everyone registered who is out there to make sure safety standards are met. Smith said she is a fan of these rental regulations. She is a big proponent of Whitefish as a family town. She said it is important for people to have predictability in their neighborhoods. She likes the contact number idea. She said these guidelines will make everyone play by the same rules. Konopatzke asked what the financial impact will be and Director Taylor said there won't be a lot of impact on the City staff. The Fire Marshall will go out and handle the inspections. If people fill out their paperwork then he doesn't see a whole lot of time involved. They are just going to keep the information on file to show that it's been registered and meets all the criteria. Konopatzke

asked if they know the number of owners who would be impacted and Director Taylor said he thinks the majority of people comply with the Code and he thinks there about 500 units. Netteberg asked about the timing of enforcement and Director Taylor said when they have a Code Enforcement person they respond sooner, but without one it used to take him a couple of months to follow-up. Director Taylor said it will include Big Mountain, too.

## **MOTION**

Meckel moved and Vail seconded Whitefish to adopt staff report WZTA 13-01 and add Section 11-3-35, Short Term Rental Standards and amend Section 11-9-2, Definitions, clarifying and setting additional performance and enforcement standards for the use of residential property for rentals of less than thirty days. The definition will also be amended to say “thirty consecutive days.

## **BOARD DISCUSSION**

Konopatzke said he would vote against this because there is no indication of the financial impact on the budget and the community with the enforcement of the new regulations. Gunderson said there is a one time expense to having staff go out to enforce this, but the hope is that the net result will be an additional resort tax to offset the staff time. Gunderson said he thought it might be a privacy issue to have a name and number posted outside the front door. He said usually there are rules listed in the home and he thought it would be nice to post regulations on City ordinances like the cell phone ordinance, shoveling of sidewalks and awareness that the lake is policed by City police. He wondered if there were other zones where the ability to pursue a CUP for short term rentals would be valuable. Netteberg said he liked that idea.

Director Taylor said when they brought that idea out two years ago there was a lot of opposition. He doesn't disagree that there might be areas that are more appropriate, but the public seemed to feel strongly against it. He said the item on the table does not address location of rentals, if the Planning Board feels strongly about this it would be a whole different discussion. Smith said it is a completely different question and they don't have a lot of data for it. She said people who purchase in residential zones deserve consideration. She said the right process is to deal with what they have now, establish and enforce regulations and then determine what they may need to solve. Director Taylor said a lot of people who owned property in places like Crestwood spoke up about this issue two years ago and said they paid prime dollars to have the right to do short term rentals in their neighborhoods.

Phillips said he thought it would be helpful to have the renter sign an agreement that they will follow City ordinances. Director Taylor said that would be too intrusive from the City's position, but it could be handled by the property owners with their rental agreements. Vail said she has long term renters and they sign an agreement to

comply with City ordinances. Netteberg said some of the homes haven't ever paid resort tax or gotten a City business license.

**VOTE**

The motion passed 8-1 with Konopatzke voting in opposition. (Scheduled for City Council on March 4, 2013.)

**NEW BUSINESS**

Director Taylor introduced the new Board Member and asked him to speak. Chad Phillips said is an architect and that moved here from Bend, Oregon four years ago and he is glad to be on board. He said he has a lot of insight into resort communities that grow too quickly.

**GOOD AND WELFARE**

1. Matters from Board

Netteberg said the Cemetery Committee has been extended and the existing lots didn't pass the perc tests so they will continue searching for locations.

2. Matters from staff

Planner Compton-Ring said they have some big projects next month which are quasi-judicial and the Board needs to keep all discussion on these at the public meeting or disclose it to the rest of the Board. Planner Compton-Ring said they will try to let the Board know when quasi-judicial issues are pending. Blake asked and Director Taylor said there has been property purchased near the Big Mountain turn-off, but nothing official has been proposed yet. Vail asked about the talks of the Old Hospital becoming a college and Director Taylor said he wasn't notified on the meeting time and location so didn't attend.

Planner Compton-ring said on March 4 there will be a work session on the parking structure study at 5:30 p.m. and she invited them to attend. Director Taylor said he put a cheat sheet about Robert's Rules of Order in their packet.

3. Poll of Board members available for next meeting (March 21, 2013.) All members indicated they would be available.

**ADJOURNMENT**

The meeting was adjourned by motion at approximately 7:15 p.m. The next regular meeting of the Whitefish City-County Planning Board will be held on March 21, 2013, 6:00 PM

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Ole Netteberg , Chairman of the Board

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Jane Latus Emmert, Recording Secretary

APPROVED as submitted/corrected: \_\_\_\_/\_\_\_\_/13

**PROPOSED ZONING CODE AMENDMENT  
ADDING 11-3-35 SHORT TERM RENTALS  
AND AMENDING 11-9-2 DEFINITIONS  
STAFF REPORT #WZTA-13-01  
FEBRUARY 21, 2013**

This is a report to the Whitefish City-County Planning Board and the Whitefish City Council regarding a code amendment to create standards for Short Term Rentals to clarify regulations and better address safety and enforcement issues. This amendment does not change where short term rentals are allowed. The Planning Board hearing is scheduled for February 21, 2013 and a subsequent hearing is scheduled before the City Council on March 4, 2013. Draft amendments are below for review and recommendation.

**BACKGROUND INFORMATION**

This proposed new section under Special Provisions and the corresponding new definition will provide a framework so the public can more easily understand the development requirements and restrictions for Short Term Rentals. The amendments also provide performance standards so there will be less impact on adjacent long term residents, as well as tools to aid enforcement of illegal rentals.

Short term rentals, or vacation rentals, are commercial rentals of residential property for less than thirty days. Unlike a lot of resort communities that are now struggling with the proliferation of short term rentals and their impacts, Whitefish was pro-active about specifying they be allowed only in certain districts when the zoning code was created. Short term rentals are allowed in resort zoning districts WRR-1, WRR-2, WRB-1, and WRB-2, Big Mountain zoning WBMV and WBMRR, and in the WB-2 and WB-3 commercial zones. Neighborhoods that allow short term rentals include Crestwood, Baypoint, Suncrest, Mountain Harbor, Iron Horse, Ptarmigan, Orchard Point, Whitefish Mountain Resort and surrounding areas, Whitefish Lake Lodge condos and vicinity, and the neighborhood around the Grouse Mountain soccer fields. Rentals of less than thirty days are illegal in standard residential zones such as the WR-1, WR-2, etc.

The code defines residential purposes as “the intent to use and/or the use of a room or group of rooms for the living sleeping, and housekeeping activities of persons on a permanent or semi-permanent basis of intended tenure of one month or more”, therefore rentals less than 30 days are considered a non-residential use and are subject to resort taxes and other regulations. The zoning code does not really have a specific section where you can find much information on short term rentals, although they are mentioned specifically as

an allowed use in the resort residential and resort business zoning districts. Commercial zones such as the WB-2 and WB-3 permit them under the broad heading “hotels, motels, and other hospitality or entertainment uses.”

In 2011, a private individual applied for a code amendment to allow the creation of short term rental ‘overlay zones’ so that short term rentals might be allowed after a public process in confined areas of other zoning districts besides resort and commercial. The City Council did not approve that amendment, citing concerns with impacts on affordable housing and the erosion of traditional residential neighborhoods. These potential performance standards and enforcement tools were discussed as part of that process. After recent discussions with the City Manager and City Attorney, staff has now brought them forward on their own as a tool to better regulate existing and future short term rentals.

Vacation rentals are an alternative to hotels, motels, and bed and breakfasts, and are favored by many travelers as they provide kitchen facilities and extra room for families and larger groups. The rental of vacation homes is the fastest growing segment of the hospitality market serving the visitor industry. Some of that growth is due to the ease of internet marketing, the need for homeowners to cover increasing costs including property taxes and utilities on their second homes, as well as the growing demand for lodging alternatives outside of traditional hotel/motel offerings.

While the benefits of short term rentals include expanded accommodation options for visitors, added resort and bed tax revenues, additional income for second home owners, and improved property values, there are some issues that they create. Short term rental impacts include:

- Degeneration of traditional family-oriented neighborhoods
- Potential for increased noise and traffic disturbances in residential neighborhoods
- A possible reduction in available on-street parking
- Possible reduced pool of available rental property and affordable housing
- The possibility that housing prices could be driven up in certain areas, forcing out local families

The proposed performance standards address many of the major concerns. Below are comments about the specific sections, the full text of which is below under Recommended Amendments.

A. Performance standards.

1. Registration. Registration gives an opportunity to review each application to make sure it meets zoning, fire, tax, and licensing requirements.
2. Zoning review. This review makes sure there are no outstanding violations or health and safety issues with the property prior to approval.
3. Density review. This is to verify that a house or condo has not been illegally split into multiple rental units in violation of maximum densities.
4. Off-street parking. This is to verify that any proposed vacation rental has the required two off-street parking spaces per unit (1 space per unit in WB-3 upstairs units). This will help alleviate impacts to residential neighborhoods.
5. Fire Marshal inspection. For health and safety reasons, the city wants to ensure that all units being rented short term have proper egress and hard wired fire alarms and there are no other major life-safety issues.
6. Tourist Home License. The state requires a Montana Public Accommodation License for short term rentals, and we just want to ensure that whoever is applying has gotten that.
7. Business License. Rentals in city limits require a business license, so we want to make sure that and the resort tax requirement is taken care of.
8. Local Contact. A requirement that a local person be responsible for dealing with issues related to the building/occupants if the owner is absentee. Since many vacation rental owners reside out of state or in Canada, it can be difficult to find someone responsible if there is a problem with the building or renters. Having a local contact is extremely helpful in getting a response.
9. Emergency Notice. The property owner is required to post an emergency contact notice visible outside the front door of the unit with their name and phone number or the name and phone number of a local contact. This will greatly assist emergency personnel in case of a fire, sprinkler system failure, disturbing the peace, or other urgent matter.
10. Maintenance and Trash Collection. This requirement ensures that the property remain a good neighbor in the community.
11. Signage. Prohibiting advertising signs helps maintain the residential character of a neighborhood.
12. Warnings. Having a registration requirement allows revocation of such or other enforcement if the performance standards aren't met or the property continually violates the city Disturbing the Peace ordinance.

- B. Violations. The proposal includes language that will help the city enforce the ongoing problem of illegal vacation rentals, namely making it

illegal to operate or advertise nightly rentals in a district that doesn't allow it. In researching other city's short term rental standards, this is a critical component of the proposed code section. Several years ago, we looked online and found almost a hundred vacation rentals in Whitefish advertising locations in zoning districts where they are illegal. That number has been considerably reduced due to enforcement action by the city where we have sent letters to violating property owners and they voluntarily complied. However, there are still dozens of illegal rentals out there. Currently it is very difficult to prove someone is renting out a property on a nightly basis without staking out a property, running license plates, or subpoenaing financial records. Finding an online or print advertisement for the rental is a much easier way to prove someone is violating the code if the enforcement action goes before the judge. Making rental companies also culpable will cut down on advertising for illegal rentals.

Here is the full text of the proposed amendments:

## **RECOMMENDED AMENDEMENTS TO TITLE 11**

### **11-3-35 SHORT TERM RENTAL STANDARDS**

#### **Short Term Rentals**

Certain zoning districts such as the WB-2, WB-3, Resort Residential and Resort Business districts permit paid visitor accommodation of less than 30-days within a legal residential unit. These standards do not apply to bed and breakfasts, hostels, hotels or motels. Short term rentals are not compatible with other residential areas as there are potential traffic and noise impacts, as well as the diminished availability of long term rental and affordable housing units.

- A. **Performance Standards.** Short Term Rentals are allowed in applicable zoning districts provided the following criteria are met:
1. The property owner shall register an application for a short term rental with the Whitefish Planning Office.
  2. The dwelling in question must conform to the land use provisions of Title 11 and other applicable regulations.
  3. Units rented shall not exceed the allowable dwelling unit density of the underlying zoning district. A unit is defined as a rentable, lockable space within a building containing a kitchen or kitchenette and a bathroom.
  4. Each unit shall meet the standards for off street parking found in §11-6.
  5. Each unit will provide a sign-off from the Fire Marshal of the applicable Fire District that indicates the dwelling meets safety standards including being hard wired with battery backup smoke detectors and having proper egress for each bedroom.

6. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
7. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
8. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.
9. The owner's (or local contact, if absentee per h above) name and phone number shall be posted on an emergency contact notice visible from outside the front door of each rental unit.
10. The property owner shall keep the property and buildings maintained and continue to provide trash collection services.
11. There will be no signage outside the unit advertising the short term rental of properties
12. The property owner shall understand that a violation of any of these conditions as well as repeated complaints of disturbing the peace related to the property may result in suspension and possible revocation of the business license and short term rental permit, as well as possible enforcement action as outlined below.

- B. **Violations.** Operating a short-term rental outside of an allowed district or without meeting all the standards listed above is a violation of the Whitefish City Code and subject to the penalties listed under Chapter 1, Section 4. Advertising the availability of a short term rental unit that is either not in compliance with these standards or is outside one of the zoning districts that permit short term rentals shall be evidence of a violation and may incur enforcement remedies against either the property owner or listing agent. Advertising creates the following presumptions: (1), that the property owner or listing agent, or both, knew the standards and zoning; and, (2), that the operator of the short term rental within city limits knew the duty to collect, report, and remit resort taxes due under Chapter 3, Section 3 of the Whitefish City Code.

### **11-9-2 Definitions**

Residential, Short Term Rental – The rental of the entire privately owned house, townhouse unit, condominium unit, apartment or other residence for less than thirty days. Short term rentals as defined herein do not include the following: bed and breakfasts, hostels, and motel or hotel establishments, and they shall not provide food or beverages for sale on premises or with the rental of the dwelling.

### **REVIEW OF ZONING TEXT AMENDMENT REQUIREMENTS**

The following considerations from Section 11-7-10(E) are required to be addressed in order to guide both the Planning Board and the City Council when considering an amendment to the zoning regulations.

<b>CONSIDERATIONS FROM SECTION 11-7-10E.</b>	<b>Staff Analysis/Comments</b>
Conformity to the Growth Policy	The 2007 Whitefish City-County Growth Policy has several sections pertinent to this particular zoning text amendment. Under Economic Development lists Goal 4 as: Develop and promote Whitefish as a year-around convention and destination resort community providing amenities for the visitor and employment opportunities for area residents.
Project Designed to Lessen Congestion in the Streets	Requirements that short term rentals meet off-street parking requirements will lessen traffic congestion in the streets.
Historical and established use patterns and recent change in use trends weighed equally, not one to the exclusion of the other.	This amendment will not change existing land use patterns, but will better protect existing neighborhood land use patterns by improving protections and enforcement of rules
Security from Fire, Panic, and Disasters	This amendment would help ensure public safety by requiring specific operational requirements in order to function as a short term rental, including the requirement for fire marshal inspections to ensure proper egress and fire alarms.
Promote Health and General Welfare	The conditions and restrictions on this proposed overlay zone are designed to protect health and general welfare
Provide Adequate Light and Air	This criterion is not applicable to this code amendment.
Prevent Overcrowding of Land and Avoid Undue Concentration of People	This code amendment requires existing homes to maintain maximum unit density requirements, which will help prevent overcrowding of land
Facilitate Adequate Provisions for Transportation, Water, Sewerage, Schools, Parks and Other Public Requirements	This criterion is not applicable to this code amendment.
Reasonable Consideration to the Character of the District	The recommended standards included conditions designed to protect the character of adjacent residential areas
Reasonable Consideration to the Peculiar Suitability of the Property for Particular Uses	The development standards will require a review to make certain the property is peculiarly suitable for the proposed use prior to approving a permit.
Conserve the Value of Buildings	The development standards help protect residential neighborhoods, which will help protect property values
Encourage the Most Appropriate Use of the Land throughout the Municipality	Although these amendments don't modify where vacation rental units can be located, they do further regulate their use so as to be more compatible with adjacent residential uses.

## **FINDINGS IN FAVOR OF RECOMMENDED AMENDMENTS**

1. We find the considerations in Section 11-7-10(E) are either met or are not applicable.
2. Whereas the city currently has ordinances and codes in effect for short term rentals, these amendments will further improve performance, neighborhood compatibility, and health and safety.
3. Whereas the new definition and code section will make it easier for the public to get information about short term rentals and how they are regulated.
4. Whereas the enforcement section will make it easier for the city to administer and enforce existing regulations.
5. We find it is in the best interest of the City of Whitefish to amend the code and create short term rental regulations in the zoning regulation standards.

## **RECOMMENDATION**

Staff recommends that the Whitefish City-County Planning Board review the recommendations set forth in this staff report to add Section 11-3-35, Short Term Rentals and amend Section 11-9-2 Definitions, subject to the above findings, and transmit same to the Whitefish City Council with a recommendation for **approval**.

Staff: David Taylor, AICP, Director

## **11-3-35 SHORT TERM RENTAL STANDARDS**

### **Short Term Rentals**

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  - f. Each unit shall provide proof of a State of Montana Public Accommodation License for a Tourist Home. This License is administered by the Flathead City-County Health Department and is subject to annual inspections.
  - g. If located in City Limits, proof shall be provided of a Whitefish City Business License and conformance to resort tax requirements.
  - h. If not a full time resident of the area, the property owner shall provide with their application the name and phone number of a local contact person that shall be responsible for handling any problems that arise with the property.
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# MANAGER REPORT

February 27, 2013



## WHITEFISH RIVER CLEAN-UP PLANS FOR 2013

Jennifer Chergo of EPA sent Karin Hilding an update and plan for the 2013 Whitefish River clean-up project. I included a copy of Jennifer's update and plan in the packet with this report. Early indications are that the trail may not have to be closed at all or only for short time periods, but that could change.

## 6TH AND GEDDES – 2013 COMPLETION PROJECT OUT FOR BIDS

Bidding for the completion of the 6<sup>th</sup> and Geddes road reconstruction project is currently being advertised and we will open bids on March 15<sup>th</sup>. The award of the construction contract will likely be on the City Council agenda for the April 1<sup>st</sup> meeting. Construction will likely resume in June.

## POLICE OFFICER ROB VENEMAN RE-HIRED

We have re-hired Rob Veneman as a police officer. Rob originally worked for the City from February, 2005 until July, 2011 and he rose to the rank of Sergeant. Rob resigned when he and his wife moved east for her job opportunities. They are moving back to the Flathead Valley and we re-hired Rob to fill the vacancy created when officer Brandon Thornburg resigned late last year. Rob resumed work last week.

## UPCOMING WORK SESSIONS

Once again we are getting backed up on future work sessions. Here is the tentative schedule for upcoming work sessions:

- March 4 - Parking Feasibility Study with Kimley-Horn & Associates
- March 18<sup>th</sup> - Litigation Quarterly Report and City Attorney and City Manager evaluations in Executive Session
- April 1 - Annual Goals setting session
- April 15<sup>th</sup> - Somewhat open – right now planning Annexation and TIF work sessions
- May 6<sup>th</sup> - Committee and Board interviews
- May 20<sup>th</sup> - Committee and Board interviews
- June 3<sup>rd</sup> - excess Committee and Board interviews and open
- June 17<sup>th</sup> - one set of interviews and open
- July 1<sup>st</sup> and beyond – open right now

## **ELECTRONICS RECYCLING**

As shown in the attached flyer in the packet, there are three, year round locations for recycling electronic items in the Flathead Valley. The locations are Pacific Steel and Recycling, Best Buy, and Staples. Given the year round availability of such recycling, the annual electronics recycling events sponsored by the Waste Not project and others will not occur in the future.

## **MEETINGS**

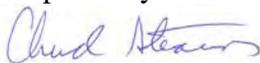
Ad-hoc Cemetery Committee (2/21) – I attended the meeting of the Cemetery Committee and updated them on activities since the joint work session with the City Council. We are working on a pro-forma spreadsheet which will show the future capital and operating costs of a new cemetery. They are also continuing work on Cremain Wall Niches/Columbariums for the current Cemetery and on land options for a new Cemetery.

911 Funding Sub-Committee (2/25) - I was asked to reconvene the 911 Funding Subcommittee to work with some members of the 911 Board on looking at the various future funding options for the 911 system. Turner Askew and I attended the meeting along with representatives from the other jurisdictions. We discussed four options for future funding and started to generate a pros and cons list of each option.

## **UPCOMING SPECIAL EVENTS**

## **REMINDERS**

Respectfully submitted,



Chuck Stearns  
City Manager

The Whitefish River Diesel Removal Action is entering its final phase this year. In April 2013, crews will be assessing potentially contaminated sediments from just below the 2<sup>nd</sup> Street Bridge to Baker Avenue along both sides of the river. While assessment and cleanup of contaminated sediments along this reach has already been completed as part of this removal action, it only focused on the sediments below the low watermark. Last year, it came to EPA's attention that there were potentially contaminated soils higher up the bank, between the low and high water mark. As a result, crews will investigate these sediments to determine areas that create significant sheen when disturbed. Crews will be focused on the sediments above Baker Avenue because this has been the area where the bulk of the oil pooled and collected. Wherever the assessment shows that sediments are causing significant sheen, those sediments will be excavated and removed. The excavated sediments will be transported to the BNSF facility to be disposed of similar to previous phases of this removal action. Most, if not all, of the sediments will be excavated from the river using a barge-mounted excavator. Minimal impacts to the riverbank are anticipated. Engineering controls will be used to control and monitor turbidity, as has been the case in previous phases of this work. The work will remain at least a foot below the vegetation line. To ensure long-term erosion control, crews will place river rock along the riverbank wherever sediments are excavated. After assessments are conducted in April, excavation work will commence soon thereafter.

This will be the fifth year and final phase of the Whitefish River Diesel Sheen Removal Action. During this final phase, the river will likely remain open around the work zone, but the pedestrian path will be required to be closed again between Miles Avenue and the Trestle Bridge where sediments will be transported from the barge to the BNSF facility.

The focus of this year's work, between the low and high watermark, falls on private property. This requires attaining access from about 40 private property owners. On Tuesday, February 19, EPA mailed a letter to these property owners explaining the proposed work and asking for an access agreement. During the week of February 25, an EPA, BNSF, and Kennedy/Jenks representative will be in Whitefish to meet with property owners individually to gather access agreements and discuss the work proposed along their property. In addition, EPA will run some public notices in April the Whitefish Pilot to let the community know that this final phase of the removal action is underway. EPA also will manage an updated Website about the project and will send out email updates to the property owners and other interested stakeholders.

If you have any questions regarding the final 2013 phase of the Whitefish River Diesel Sheen Removal Action, please feel free to contact me anytime. Thank you,

Jennifer Chergo

EPA Office of Communication and Public Involvement, 303-312-6601 / 1 (800) 227-8917 /  
chergo.jennifer@epa.gov

Dear Chuck,

**IT IS EXCITING TO NOW HAVE THREE**

**PLACES** in the valley where you can safely dispose of your unwanted or outdated prescription medicines and over-the-counter drugs. Prescription drug abuse is the nation's fastest-growing problem. And alarming amounts of pharmaceuticals are ending up in our rivers, lakes, and groundwater. So **DON'T**

**RUSH TO FLUSH.** Dispose of your medicines in one of THREE safe, convenient receptacles in the valley.

**Kalispell**, FLATHEAD CO. JUSTICE CTR., 24 hrs/day, 7 days/wk.

**Columbia Falls** POLICE DEPT., Mon-Fri., 8am-6pm.

**Whitefish** POLICE DEPT., Mon-Fri., 8am-5pm

**NO LIQUIDS OR NEEDLES, PLEASE.**

[See our brochure for proper disposal of these items.](#)  
[Click here for links to additional background information](#)



Teens are abusing prescription drugs at an alarmingly high rate.



**YOU CAN NOW RECYCLE E-WASTE YEAR-ROUND!**

Two million tons of electronics are improperly dumped at landfills every year. Each computer monitor alone contains 4 pounds of lead, as well as arsenic, lithium, mercury,

beryllium, and other chemicals. For every million cell phones we recycle, 35 thousand pounds of copper, 772 pounds of silver, 75 pounds of gold, and 33 pounds of palladium can be recovered.

**Checking to make sure that Electronic Waste are recycled in an environmentally save manner is an on-going consumer responsibility.** Largely because of consumer pressure (good job public) most responsible companies are getting independent third-party certification that their E-Waste collections are properly recycled and not shipped and "dumped" in over-seas counties. This includes companies providing services in the Flathead. Click below for more information:



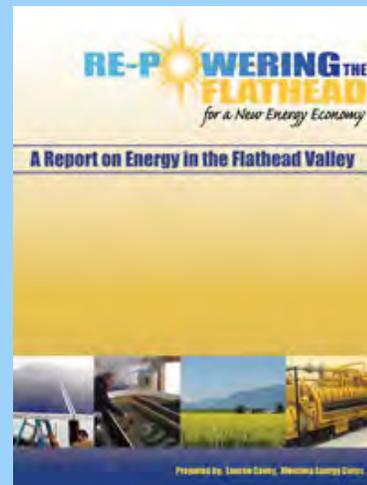
[Click here to learn more about The WasteNot Project](#)  
Note we are in the process of updating this site with the latest information.

**Quick Links**



[Citizens for a Better Flathead](#)

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[Re-Powering the Flathead](#)



[Go Local Flathead](#)

**Citizens for a Better Flathead**

- [Third Party Certification--What you should ask before you recycle.](#)
- [More background on efforts to curb improper dumping of E-Waste](#)

**New Locations for year-around E-Waste Recycling in the Flathead include** (Contact these businesses directly or click the green links below for more information on what third party certification these businesses have):

**[Pacific Steel & Recycling](#)** will take computers, monitors, TVs, cell phones, and most electronics, Mon. thru Fri., 8am - 5pm. at their Kalispell location.755-7011  
[Directions](#)

**[Best Buy](#)** will take computers, monitors, cell phones, and printers.752-1300

**[Staples](#)** will take computers, monitors, cell phones, and printers. 257-8200

***Note! Flathead County will not host an annual spring E-Wasted collection event this year as these businesses are now providing these services.***



**HOME OWNERS CAN SAFELY DISPOSE of the COMMON HAZARDOUS PRODUCTS**

found in most homes, which are used to clean the house, keep the yard and garden in top shape, and to maintain the family car, **on the third Saturday of each month at the Flathead County Landfill. [Click here for details.](#)**

**SMALL BUSINESS HAZARDOUS WASTE**

**DISPOSAL** This once a year event should again be in May, date yet to be determined. We will keep you posted.

Sincerely,  
Citizens for a Better Flathead & the WasteNot Project

*For two decades Citizens for a Better Flathead has worked to foster informed and active citizen participation in the decisions shaping the Flathead's future, and to champion the democratic principles, sustainable solutions, and shared vision necessary to keep the Flathead Special Forever.*

[citizens@flatheadcitizens.org](mailto:citizens@flatheadcitizens.org)  
[www.flatheadcitizens.org](http://www.flatheadcitizens.org)  
(406) 756-8993

[Forward email](#)



Try it FREE today.

This email was sent to [cstearns@cityofwhitefish.org](mailto:cstearns@cityofwhitefish.org) by [citizens@flatheadcitizens.org](mailto:citizens@flatheadcitizens.org) |  
Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).  
Citizens For A Better Flathead | P.O. Box 771 | Kalispell | MT | 59903

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## Budget Calendar Fiscal 2014

- Feb 4 Asst. City Manager/Finance Director begins reformatting budget spreadsheets, updating historical budget data, and estimating final year end revenues and expenditures for FY14.
- Feb 15** Department Directors to submit individual updated 5 year Capital Improvement Plans to Administrative Assistant to the Public Works Director.
- Feb 22 Finance Director to submit newly compiled 5 year Capital Improvement Plan to City Manager.
- Mar 1 Assistant City Manager/Finance Director submits budget preparation instructions and materials to all Department Heads.
- March City Manager meets with Mayor and Council members in groups to get preliminary comments on budget.
- Mar 29** All Department Heads submit estimates of expenditures and revenues to the Assistant City Manager/Finance Director.
- Apr 1 Optional notice deadline for City Council or Municipal Judge to submit request for an adjustment in Municipal Judge's compensation other than automatic cost of living.
- Apr 1 City Council approval of Capital Improvement Program. (Optional every other year—completed for FY13 will do for FY15)
- May 1 City Manager to provide Municipal Judge with proposed "status quo" Municipal Court Budget.
- May 15 Municipal Judge's deadline to submit his Municipal Court budget proposal. (Ordinance)
- May 6 Assistant City Manager/Finance Director produces budget document.
- May 13 Budget Meeting - City Manager presents proposed budget to Mayor & City Council. Department Directors other than Public Works present budget requests.
- May 28 Budget Meeting – Public Works and Municipal Court present budgets
- Jun 3 or 17 Preliminary Public Hearing and City Council adopts Preliminary Budget
- Jul 1 City begins fiscal year using proposed budget as approved by the City Council.
- Aug 5 DOR to submit Certified Taxable Value.
- Aug 7 & 14 Advertise notice of public hearing on budget for August 19, 2013.
- Aug 19** Public hearing on budget.  
Final budget adopted by resolution.

**Bold denotes deadlines**

**1/16/2013**

## Chuck Stearns

---

**From:** Richard Hildner [rhildner@cityofwhitefish.org]  
**Sent:** Saturday, January 19, 2013 9:13 PM  
**To:** Chuck Stearns  
**Subject:** Re: Tentative FY14 Budget Schedule

Hi Chuck,  
I wanted to get out in front of the budget schedule and let you know I'll be unavailable 5/7-5/19. I'm pretty sure the same goes for Frank.  
Richard

Sent from my iPad

On Jan 16, 2013, at 11:58 AM, "Chuck Stearns" <[cstearns@cityofwhitefish.org](mailto:cstearns@cityofwhitefish.org)> wrote:

Mayor Muhlfeld and City Council Members: (cc: Department Directors, Honorable Judge Johnson, Shelley A, SueAnn G, Joey K, Library Board)

Attached is the tentative budget schedule for FY14. Departmental budgets are due to Rich on March 29<sup>th</sup> (gives new meaning to Good Friday) and we would distribute the proposed budget to the Mayor and Council on May 6<sup>th</sup>.

The budget work session dates of Monday, May 13<sup>th</sup> and Tuesday, May 28<sup>th</sup> are based on prior years' schedules, but those dates are up to the Mayor and City Council. I will have an agenda item in April for the Mayor and Council to confirm or change those dates.

Please mark your calendars with the important dates, but the Council work session dates may change. Thank you.

Chuck Stearns  
City Manager  
City of Whitefish  
P.O. Box 158  
418 East 2nd Street  
Whitefish, MT 59937-0158  
Telephone - 406-863-2406  
Fax - 406-863-2419  
Cell -  
[cstearns@cityofwhitefish.org](mailto:cstearns@cityofwhitefish.org)  
<image003.jpg>

<Budget.schedule.FY14.pdf>

# MEMORANDUM

#2013-016



To: Mayor John Muhlfeld  
City Councilors

From: Chuck Stearns, City Manager

Re: Staff Report – Mail or Polling Place Election for fall election

Date: February 27, 2013

## Introduction/History

The City Council chose to use a mail ballot election for the last three elections in 2007, 2009, and 2011.

## Current Report

Administrative Services Director/City Clerk Necile Lorang received a February 1, 2013 letter from the Flathead County Election Services Manager regarding the 2013 Municipal elections. This notification is enclosed with the packet and it represents a good time to address several issues related to the upcoming elections. General Election day is Tuesday, November 5, 2013.

Mail Ballot or Polling Places - We would like some direction from the Mayor and City Council on preferences between a mail ballot or polling stations for both the primary and general elections.

### Mail ballot

- More expensive (\$5,626.66 in direct costs in 2007, \$5,880.02 in 2009, and \$8,771.26 in 2011; general election plus higher staff costs for citizen questions and helping electors with mail ballot process; postage has gone up since 2011)
- Can be more complex for residents resulting in disqualified ballots.
- In the 2011 general election, 3,994 ballots were mailed out and 571 were returned as undeliverable.
- Voters may have more time to ponder ballot.
- Turnout greatly increases – 47% turnout in 2007 and 42.02% in 2009 and 53% in 2011
- Other effects?

### Polling Places

- Less expensive (\$2,141.26 in direct costs in 2005 plus much less staff costs for answering questions). Town staff provides no help with ballot as voting is done at polling places staffed by Flathead County and election judges.
- Simpler voting process – no envelopes, no signing of envelopes....
- Turnout more affected by weather.
- Lower turnout – 22% in November 2005 general election.
- Location of Polling Place can be confusing and can affect turnout.
- Other effects?

If the Mayor and Council prefer Polling Places, we will also need to decide on an appropriate location. Necile says the Armory was a little too remote, Flathead County likes the Golden Agers building, City Hall has parking problems. Other options could be investigated – O'Shaughnessy Center.....

Possibility of City initiated referenda – Any referenda or initiative would have to be completed and properly filed with the Flathead County Election Department by August 21, 2013 (75 days prior to General Election Day). If the Mayor and Council are considering any referenda, we should start soon on concepts, discussion, and language.

A copy of the election calendar is also attached.

### Financial Requirement

The 2011 election cost \$8,771.26 and postage and supply costs have gone up since then.

### Recommendation

Staff respectfully requests that the Mayor and Council discuss the aspects of the 2013 elections and decide on mail ballot versus polling places and whether any referenda are desired.

attachments



PAULA ROBINSON  
**FLATHEAD COUNTY ELECTION DEPARTMENT**

ELECTION ADMINISTRATOR  
800 South Main - Kalispell, Montana 59901  
Phone (406) 758-5536 or 5535  
Fax (406) 758-5865



February 1, 2013

Necile Lorang, Clerk  
City of Whitefish  
PO Box 158  
Whitefish MT 59937

Re: 2013 Municipal Elections

It is time once again to begin planning for the 2013 Municipal Election year. We have enclosed the Election calendar for the upcoming year. Please review the calendar and let me know if you have any questions. I am also including some pertinent information for you regarding your voter numbers.

Whitefish has roughly **4929** voters, of those, so far **1495** have requested to be absentee voters. Please be aware that as the price of postage and supplies continue to raise that the costs of elections will go up as well. We will mail ballots out of our office but if you would prefer to have your own vendor print your envelopes, please let us know so that we may provide them with the specifics required for the envelopes.

Would you please take a few moments and answer the following questions.

- Which positions are open for election in 2013 and what is the term length and salary of each? Are there any other issues that are required to be placed on your city's ballot?
- Verification of Polling place or would you prefer to have your election ran as a Vote-by- mail election. How many election judges are you authorizing to work during your election?
- Have you made any changes to the boundaries of the city limits? If so, please send me a list of any added addresses.

I am including a packet with the necessary filing forms and I will place the filing information on our website at <http://flathead.mt.gov/election>.

If you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in black ink that reads "Monica R. Eisenzimer".

Monica R. Eisenzimer  
Election Services Manager

## **2013 Municipal Election Calendar**

4/29/2013 – Filing opens at the County Election Department at 8:00 a.m.

6/27/2013 – Filing closes at 5:00 p.m.

8/21/2013 – Absentee ballots mailed or if it is determined to be a “vote – by-mail” election, all ballots will be mailed on 8/21/2013

9/10/2013 – Municipal Primary Election (if necessary)

10/16/2013 – Absentee Ballots mailed or if it is determined to be a “vote-by-mail” election, all ballots will be mailed on 10/16/2013.

11/5/2013 – Municipal Election Day

# Montana 2013 Municipal Primary and General Election Calendar\* †



Secretary of State Linda McCulloch  
 Elections and Government Services Division  
[sos.mt.gov](http://sos.mt.gov) • [soselections@mt.gov](mailto:soselections@mt.gov)

Other local jurisdictions may be required to hold an election in the odd year, including but not limited to local sewer districts.  
 †All dates and laws are subject to change by the 2013 Legislature.

\* Dates marked by \* are based on probable 2013 legislation – changes due to probable legislation are also noted as “New”, and are subject to change if legislation does not pass or is modified.

Deadline		Statute
January 1 - 31	Period for county election administrators to mail forwardable address confirmation cards to electors on the annual absentee list	<a href="#">13-13-212(4)</a>
<b>April 29</b>	<b>First day for candidates to file for office</b>	<a href="#">13-10-201(6)</a>
June 20	Deadline for independent and minor party petitions to be submitted to election administrators	<a href="#">13-10-201(6)</a> <a href="#">13-10-503</a>
June 27	<b>5:00 p.m. - Deadline for candidates to file for office</b>	<a href="#">13-10-201</a>
	5:00 p.m. - Deadline for candidates to withdraw primary election candidacy	<a href="#">13-10-325</a>
Within 5 days of filing for office	Candidates must file appropriate paperwork with Commissioner of Political Practices in order for their names to appear on the ballot	<a href="#">13-37-201</a>
June 27 – July 5	Period for election administrators to certify to Commissioner of Political Practices the names of all municipal candidates who have complied with MCA Title 13, Chapter 37	<a href="#">13-37-126(1)</a> <a href="#">13-37-225</a>
After June 27	Election administrators determine whether nonpartisan primary election and parties' primary elections need to be held; then notify governing body	<a href="#">13-10-209</a> <a href="#">13-14-115</a>
July 5	Deadline for Commissioner of Political Practices to notify election administrators that candidates have not complied with the provisions of MCA Title 13, Chapter 37 and that the candidates' names should not appear on the official ballot	<a href="#">13-37-126(3)</a>
July 7	Deadline for governing body to decide that a nonpartisan primary must be held, if election administrator determines that the election need not be held	<a href="#">13-14-115</a>
July 12	<b>Deadline for Secretary of State to receive mail ballot plan</b> , timetable and instructions from county election administrators conducting municipal primary election(s) by mail ballot	<a href="#">13-19-205</a>
Starting not earlier than July 15	Election administrators must publish or broadcast notice specifying the day regular voter registration will close and the availability of late registration (three times in the four weeks preceding close of registration)	<a href="#">13-2-301(1)(b)</a>
August 9	5:00 p.m. - Deadline for write-in candidates to file a Declaration of Intent for the primary election, except in mail ballot elections ( <i>see also August 15</i> )	<a href="#">13-10-211(1)</a>
August 12	<b>Close of primary regular voter registration</b> (registration cards postmarked by this date and received within 3 days are accepted for regular registration)	<a href="#">13-2-301</a>
	Beginning of period during which election administrators publicly test and certify that each type of voting system used in an election is performing properly	<a href="#">13-17-212</a>
	5:00 p.m. - Deadline for candidates to withdraw general election candidacy	<a href="#">13-10-325</a>
August 13	Beginning of late registration	<a href="#">13-2-304</a>
August 15	5:00 p.m. - Deadline for write-in candidates in mail ballot elections to file a Declaration of Intent for the primary election ( <i>see also August 9</i> )	<a href="#">13-10-211(3)</a>

	Registration cards postmarked by August 12 and received by this date are accepted for regular registration	<a href="#">13-2-301</a>
August 21	<b>Date by which primary election absentee ballots must be available for voting;</b> electors on the annual absentee elector list are sent ballots automatically	<a href="#">13-13-205(1)(b)</a> <a href="#">13-13-212(4)</a>
	Election administrators must send ballots to absent military and overseas electors as soon as the ballot is printed and by no later than this date	<a href="#">13-13-205</a>
August 31 – September 8	Election administrators must publish or broadcast: a diagram showing the voting system and a sample of the ballot layout (in newspaper only), a statement of the locations where voting systems are on public exhibition, and instructions on how to vote	<a href="#">13-17-203</a>
	Election administrators must publish or broadcast locations of the precinct polling places, including accessibility designations for each polling place	<a href="#">13-3-105(2)</a> <a href="#">13-3-207</a>
September 6	Beginning of period for printing of primary election precinct register	<a href="#">13-2-116</a>
	After 5:00 p.m. - Beginning of period for qualified electors who are prevented from voting at the polls as a result of illness or health emergency, occurring between 5:00 p.m. of the Friday before the election and noon on election day, to request to vote by special absentee ballot	<a href="#">13-13-211(2)</a> <a href="#">13-13-212(2)</a>
	<b>Deadline for Secretary of State to receive mail ballot plan,</b> timetable and instructions from county election administrators planning conducting municipal general election(s) by mail ballot	<a href="#">13-19-205</a>
Starting not earlier than September 9	Election administrators must publish or broadcast notice specifying the day regular voter registration will close and the availability of late registration (three times in the four weeks preceding close of registration)	<a href="#">13-2-301</a>
September 9	Noon - Deadline for application to be made for absentee ballot	<a href="#">13-13-211(1)</a>
	Noon - Absentee ballots are issued to late registrants up until this time on the day before election day; late registrants who submit a registration card after noon must return to the election office on election day to receive an absentee ballot	<a href="#">13-2-304</a>
	Election Administrators may, at their option, conduct early preparation of absentee ballots as provided in statute and administrative rule	<a href="#">13-13-241</a>
September 10	<b>MUNICIPAL PRIMARY NOMINATING ELECTION</b>	<a href="#">13-1-107(2)</a>
	Election administrators or designees must randomly test and certify 5% of each type of voting system (a minimum of one per county), to validate the accuracy of voted paper ballots with the voting system results	<a href="#">44.3.1713(1)(f)</a> <a href="#">ARM</a>
	Noon - End of period for qualified electors who are prevented from voting at the polls as a result of illness or health emergency, occurring between 5:00 p.m. of the Friday before the election and noon on election day, to request to vote by special absentee ballot	<a href="#">13-13-211(2)</a> <a href="#">13-13-212(2)</a>
	8:00 p.m. - End of late registration (or when all individuals in line at 8:00 p.m. have registered)	<a href="#">13-2-304</a>
September 10 – 16	Period during which election administrators may open a package containing a precinct register to resolve provisional ballots	<a href="#">13-15-107</a> <a href="#">13-15-301(2)</a>
September 16	3:00 p.m. - Counting of provisional ballots that are not resolved by the end of election day may not begin prior to this date and time	<a href="#">13-15-107(6)</a>
	3:00 p.m. - Deadline for election administrators to receive Federal Write-In Absentee Ballots (FWABs) that were sent by absent military and overseas electors by 8:00 p.m. on election day	<a href="#">13-21-206</a>

By September 24	Canvass completed - Board declares nominated the individuals having received the highest number of votes cast for each office and proclaims adoption or rejection of ballot issues	<a href="#">13-15-401</a> <a href="#">13-15-405</a>
Within 5 days of official canvass	Deadline for candidates to initiate contest of primary election nomination	<a href="#">13-36-102(1)</a>
	Deadline for unsuccessful primary election candidates to apply for a recount, if applicable	<a href="#">13-16-201</a> <a href="#">13-16-301</a>
Within 10 days of official canvass	Deadline for successful primary write-in nominees to file a written Declaration of Acceptance	<a href="#">13-10-204</a>
October 4	5:00 p.m. - Deadline for write-in candidates to file a Declaration of Intent for the general election, except in mail ballot elections ( <i>see also October 10</i> )	<a href="#">13-10-211(1)</a>
October 7	<b>Close of regular voter registration</b> (registration cards postmarked by this date and received within 3 days are accepted for regular registration)	<a href="#">13-2-301</a>
	Beginning of period during which election administrators publicly test and certify that each type of voting system used in an election is performing properly	<a href="#">13-17-212</a>
October 8	Beginning of late registration	<a href="#">13-2-304</a>
October 10	5:00 p.m. - Deadline for write-in candidates in mail ballot elections to file a Declaration of Intent for the general election ( <i>see also October 4</i> )	<a href="#">13-10-211(3)</a>
	Registration cards postmarked by October 7 and received by this date are accepted for regular registration	<a href="#">13-2-301</a>
October 16	<b>Date by which general election absentee ballots must be available for voting;</b> electors on the annual absentee elector list are sent ballots automatically	<a href="#">13-13-205</a> <a href="#">13-13-212(4)</a>
	Election administrators must send ballots to absent military and overseas electors as soon as the ballot is printed and by no later than this date	<a href="#">13-13-205</a>
October 26 - November 3	Election administrators must publish or broadcast: a diagram showing the voting system and a sample of the ballot layout (in newspaper only), a statement of the locations where voting systems are on public exhibition, and instructions on how to vote	<a href="#">13-17-203</a>
	Election administrators must publish or broadcast locations of the precinct polling places, including accessibility designations for each polling place	<a href="#">13-3-105(2)</a> <a href="#">13-3-207</a>
October 31*	<b>NEW.</b> Election Administrators may, at their option, conduct early preparation of absentee and mail ballots as provided in statute and administrative rule	<a href="#">13-13-241</a> <a href="#">HB 296</a>
November 1	Beginning of period for printing of general election precinct register	<a href="#">13-2-116</a>
	After 5:00 p.m. - Beginning of period for qualified electors who are prevented from voting at the polls as a result of illness or health emergency, occurring between 5:00 p.m. of the Friday before the election and noon on election day, to request to vote by special absentee ballot	<a href="#">13-13-211(2)</a> <a href="#">13-13-212(2)</a>
November 4	Noon - Deadline for application to be made for absentee ballot	<a href="#">13-13-211(1)</a>
	Noon - Absentee ballots are issued to late registrants up until this time on the day before election day; late registrants who submit a registration card after noon must return to the election office on election day to receive an absentee ballot	<a href="#">13-2-304</a>

November 5	<b>MUNICIPAL GENERAL ELECTION</b>	<a href="#">13-1-104(2)</a>
	Election administrators or designees must randomly test and certify 5% of each type of voting system (a minimum of one per county), to validate the accuracy of voted paper ballots with the voting system results	<a href="#">44.3.1713(1)(f) ARM</a>
	Noon - End of period for qualified electors who are prevented from voting at the polls as a result of illness or health emergency, occurring between 5:00 p.m. of the Friday before the election and noon on election day, to request to vote by special absentee ballot	<a href="#">13-13-211(2)</a> <a href="#">13-13-212(2)</a>
	8:00 p.m. - End of late registration (or when all individuals in line at 8:00 p.m. have registered)	<a href="#">13-2-304</a>
November 5 – 12	Period during which election administrators may open a package containing a precinct register to resolve provisional ballots	<a href="#">13-15-107</a> <a href="#">13-15-301(2)</a>
Starting November 6	Period for election administrators to certify to the Commissioner of Political Practices the names of all elected municipal candidates who have complied with MCA Title 13, Chapter 37 by properly filing all required statements/reports with their county election administrators	<a href="#">13-37-127(1)</a>
	Period for Commissioner of Political Practices to certify to election administrators the names of all elected municipal candidates who complied with MCA Title 13, Chapter 37 so certificates of election can be issued	<a href="#">13-37-127</a>
November 12	3:00 p.m. - Counting of provisional ballots that are not resolved by the end of election day may not begin prior to this date and time	<a href="#">13-15-107</a>
	3:00 p.m. - Deadline for election administrators to receive Federal Write-In Absentee Ballots (FWABs) that were sent by absent military and overseas electors by 8 p.m. on election day	<a href="#">13-21-206</a>
By November 19	Canvass completed - Board declares elected the individuals having received the highest number of votes cast for each office and proclaims adoption or rejection of ballot issues	<a href="#">13-15-401</a> <a href="#">13-15-405</a>
Within 5 days of official canvass	Deadline for unsuccessful general election candidates to apply for a recount, if applicable	<a href="#">13-16-201</a> <a href="#">13-16-301</a>
Within 10 days of official canvass	Deadline for successful general election write-in candidates to file a written Declaration of Acceptance	<a href="#">13-15-111</a>



# 2013 Municipal Primary and General Election Calendar

Montana Secretary of State Linda McCulloch

Elections and Government Services

[sos.mt.gov](http://sos.mt.gov) • [soselections@mt.gov](mailto:soselections@mt.gov)

## Election Information

### My Voter Page

Visit the Secretary of State's webpage at [sos.mt.gov](http://sos.mt.gov) for the following services on My Voter Page:

- Check your registration status
- Find your polling place, including a map with directions to the polling place
- Check the status of your absentee ballot, if applicable
- See a sample ballot, when available

### Filing for Office

Pursuant to 13-10-201, MCA, in a partisan election, an individual may not file a Declaration for Nomination or a Declaration of Intent for more than one political party. A candidate may not file for more than one public office. (This does not include precinct committee candidates.) Individuals cannot file for nonpartisan offices as independent candidates or as political party candidates.

### Late Registration

An elector may register or change the elector's voter registration information after the close of regular registration specified in [13-2-301](#), MCA, and vote in the election if the election administrator in the county where the elector resides receives and verifies the elector's voter registration information prior to the close of polls on election day.

A late registrant may vote in an election only if the elector obtains the ballot in person from the election administrator and returns it to the location designated by the election administrator, either in person or by mail, subject to applicable deadlines.

Pursuant to [13-2-304](#), MCA, election administrators close late registration at noon on the day before election day and reopen late registration on election day. Any elector wishing to register after noon on the day before the election may do so by submitting a voter registration application at the election office the day before election day or on election day during polling hours, and appearing at the election office on election day in order to vote.

Absent military and overseas electors are eligible for late registration, although they are not required to appear at the county election office in order to late register.

### Opening and Closing of Polling Places

According to [13-1-106](#), MCA, polls must open from 7 a.m. to 8 p.m., except that polling places having fewer than 400 registered electors must be open from at least noon to 8 p.m. (or until all registered electors in any precinct have voted). Contact your county election office for your polling place hours.

### ID for Voting

All voters must present ID when voting at the polling place. ID can be a current photo ID with the voter's name, or if photo ID is not available, a current utility bill, bank statement, paycheck, notice of confirmation of voter registration, government check or other government document that shows the voter's name and current address.

### Provisional Ballots

Pursuant to [13-15-107](#), MCA, counting of provisional ballots that are not resolved by the end of election day may not begin prior to 3:00 p.m. the sixth day after the election. Proof of registration or required identification must be provided to the county election office by 5:00 p.m. the day after the election, or mailed to the county election office by the day after the election. Election officials or election workers shall notify each elector who cast a provisional ballot, by the most expedient means possible, whether or not the elector's ballot was counted, and the reason(s) why or why not.

### Voter Info

Contact your [Election Administrator](#) at your county election office. Contact the Secretary of State at [soselections@mt.gov](mailto:soselections@mt.gov) or at 1-888-884-8683 (VOTE). Mailing address: PO Box 202801, Helena, MT 59620-2801.

*Last updated February 7, 2013*



# Declaration for Nomination and Oath of Candidacy - County and Municipal offices

Filing for office of: \_\_\_\_\_  \_\_\_\_\_  Nonpartisan  
Full name of office including district and/or department numbers if applicable      Name of Political Party

Candidate Name (printed exactly as it should appear on the ballot): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street or PO Box      City      Zip

Residence Address: \_\_\_\_\_  
Street      City      Zip

County of Residence: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_ Website Address: \_\_\_\_\_

FILING FEE – FEE MUST BE PAID BEFORE FILING IS VALID:

Candidate Filing Fee, if applicable, in the amount of \$ \_\_\_\_\_ is hereby submitted with this Declaration and Oath of Candidacy.

OATH OF CANDIDACY - CANDIDATE MUST SIGN IN THE PRESENCE OF A NOTARY PUBLIC OR AN OFFICER OF THE OFFICE WHERE THIS FORM IS FILED:

*I hereby affirm that I possess, or will possess within constitutional and statutory deadlines, the qualifications prescribed by the Constitution and laws of the United States and the State of Montana.*

\_\_\_\_\_  
Signature of Candidate

\_\_\_\_\_  
Date

NOTARY OR AUTHORIZED OFFICER

State of Montana  
County of \_\_\_\_\_

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_  
*Printed Name of Candidate*

\_\_\_\_\_  
Signature of Notary or Public Official

[Montana notaries must complete the following if not part of stamp at left]

\_\_\_\_\_  
Printed Name of Notary Public

Notary Public for the State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_, 20\_\_\_\_

**Where to file for Flathead County, City and most Local District offices:**  
Flathead County Election Department  
800 S Main St  
Kalispell, MT 59901



# Oath of Candidacy and Petition for Nomination

Once filed, a candidate may only withdraw from candidacy by filing with the proper filing officer a notarized statement no later than 5:00 p.m. on the last day to file for a primary election, or no later than 5:00 p.m. 85 days before a general election.

## OATH OF CANDIDACY AND PETITION TO BE FILED WITH COUNTY ELECTION ADMINISTRATOR

Filing for office of: \_\_\_\_\_ as a Nonpartisan  
Full name of office including district and/or department numbers if applicable

Candidate for the:  Primary  General  Other ( \_\_\_\_\_ ) election to be held on \_\_\_\_\_, 20\_\_\_\_

Candidate Name (printed exactly as it should appear on the ballot): \_\_\_\_\_

Mailing Address: \_\_\_\_\_  
Street or PO Box City Zip

Residence Address: \_\_\_\_\_  
Street City Zip

County of Residence: \_\_\_\_\_ Home Phone: \_\_\_\_\_ Work Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_ Website Address: \_\_\_\_\_

### OATH OF CANDIDACY - CANDIDATE MUST SIGN IN THE PRESENCE OF A NOTARY PUBLIC OR AN OFFICER OF THE OFFICE WHERE THE FORM IS FILED

*I hereby certify that I am a citizen of the United States and a resident of the state of Montana, and do affirm that I possess the qualifications prescribed by the Constitution and laws of the United States and the state of Montana.*

Signature of Candidate \_\_\_\_\_ Date \_\_\_\_\_

### NOTARY OR AUTHORIZED OFFICER

State of Montana  
County of \_\_\_\_\_

Signed and sworn to before me this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_ by \_\_\_\_\_  
*Printed Name of Candidate*

[SEAL/STAMP]

Signature of Notary or Public Official  
[Montana notaries must complete the following if not part of stamp at left]

Printed Name of Notary Public \_\_\_\_\_

Notary Public for the State of \_\_\_\_\_

Residing at: \_\_\_\_\_

My commission expires: \_\_\_\_\_, 20\_\_\_\_

**Where to file for County, City and most Local District offices:**  
County Election Administrator's Office  
  
Flathead County Election Department  
800 S Main – Room 115  
Kalispell, MT 59901



PAULA ROBINSON  
**FLATHEAD COUNTY CLERK & RECORDER**

ELECTION ADMINISTRATOR  
 800 South Main - Kalispell, Montana 59901  
 Phone (406) 758-5536 or 5535  
 Fax (406) 758-5877



Website: <http://flathead.mt.gov/election>

December 16, 2011

Necile Lorang, Clerk  
 City of Whitefish  
 PO Box 158  
 Whitefish MT 59937

I, Paula Robinson, Election Administrator for Flathead County, do hereby certify that at the Municipal General Election held in the City of Whitefish on the 8<sup>th</sup> of November, 2011, the results are as appears from the official canvass of the returns on the 17<sup>th</sup> day of November, 2011.

<b>Mayor – John Muhlfeld</b>	<b>1481</b>
<b>Councilperson – Johnathan W. Anderson</b>	<b>1317</b>
<b>Councilperson – Richard Hildner</b>	<b>1316</b>
<b>Councilperson – Frank Sweeney</b>	<b>1263</b>
<b>Referendum No. 1</b>	<b>For 1444</b>
	<b>Against 739</b>

**4402** TOTAL REGISTERED VOTERS                      **2318** TOTAL VOTES CAST

Certified this 16<sup>th</sup> day of December, 2011

PAULA ROBINSON  
 Election Administrator

53%

By  
 Monica R. Eisenzimer  
 Election Services Manager

**Receipt # 805432**

Deputy Clerk: Monica E

Recorded by: WHITEFISH CITY  
BOX 158  
WHITEFISH, MT 599370158

**Flathead County Clerk & Recorder**

800 S Main  
Kalispell, MT 59901  
2/10/2012 2:45:00 PM

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**Fees:**

Assessor# \$8,771.26

REIMBURSEMENT OF ELECTION CHARGES 0 pages  
/

**Payments & Refunds**

**Memo:**

**Total Fees:** \$8,771.26  
**Amount Received:** \$0.00  
**Change:** \$0.00

**WHITEFISH CITY**

envelopes	3994	.24 each	\$ 958.56
Close of Registration (FP)			\$ 267.27
Close of Registration (DIL)			\$ 39.68
Notice of Polls (FP)			\$ 59.19
Notice of Polls (DIL)			\$ 79.50
Notice of Special Election (FP-Whitefish pilot)			\$ 1,287.00
Notice of Special Election (DIL)			\$ 577.28
Postage	3994	0.67	\$ 2,675.98
Undeliverable ballot postage	571	0.32	\$ 182.72
Election Judge Supplies			\$ 15.00

**ELECTION JUDGES**

				Mileage	
Karen	Morrell	\$ 122.50			
Tom	Laird	\$ 140.26	17.76		122.5
Shared election judges		\$ 389.63			

**BALLOT EXPENSES**

Layout		\$ 52.50
Coding		\$ 701.75
Ballots	4280 27¢ each	\$ 1,155.60
Shipping & Handling		\$ 66.84

**PLEASE REMIT**

**\$ 8,771.26**

County: Flathead  
User Name : Eisenzimer,  
Monica

## Ballot Statistics By Ballot Style

Date : 02/10/2012  
Report No. : BP-004

Election : 07WFMUNICIPALGEN 2011 - 11/08/2011

Ballot Style	Issued	Returned	Rejected	Undeliverable	Held Ballots	Void	Prepared
WFSH CITY	3994	2348	13	571	0	19	1
	3994	2348	13	571	0	19	1

**ORDINANCE NO. 10-09**

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF WHITEFISH, MONTANA, REVISING THE CITY INSURANCE COMMITTEE ORDINANCE.

WHEREAS, as a public entity the City of Whitefish needs to responsibly manage the public's funds, with a view toward limiting expenditures whenever practical and reasonable ; and

WHEREAS, at the same time, the City must provide competitive benefits to its employees, in order to attract and retain a quality workforce; and

WHEREAS, the City Council has determined to create the City Insurance Committee, in order to allow significant and decisive participation by City employees in decisions regarding the provision of health insurance, vision insurance, and dental insurance (hereafter collectively referred to as "health insurance"); and

WHEREAS, on April 7, 2003, the Whitefish City Council previously enacted Ordinance No. 03-08 establishing an Insurance Committee and specifying its purpose, powers, duties and procedures; and

WHEREAS, given the changes in medical, dental, and vision insurance costs and timelines of providing insurance cost estimates, it is now desirous to make some minor modifications to the Insurance Committee Ordinance.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Whitefish, Montana that Ordinance No. 03-08 is modified as follows:

Section 1: STANDING COMMITTEE ESTABLISHED: There is hereby established an Insurance Committee, hereinafter "Committee".

Section 2: HEALTH INSURANCE: The term "health insurance" shall include medical, vision, dental, prescription drugs, and life insurance.

Section 3: PURPOSE, POWERS, AND DUTIES: The purpose and duties of the Committee are to make decisions regarding the procurement of health insurance for City employees. As part of the budget process each year, the City Council shall evaluate and determine the amount of funds that the City can contribute toward the cost of health insurance premiums for the following fiscal year. Such determination shall be based, in part, on the need to ensure that the City has competitive benefits for its employees. Thereafter, the Insurance Committee shall investigate, analyze, and determine the precise nature of health insurance benefits that the City will be capable of purchasing in the future. In conducting its investigation and analysis, the Committee shall be

empowered to consider the City's current plan, alternative plans, plan components, coverage levels, multi-jurisdictional insurance pools, self-insurance pools, and any other method of permitting the City to provide health insurance benefits for its employees at the cost determined by the City Council. Coverage requiring premiums in excess of the Council's funding level may be adopted, but only after an affirmative vote of the Committee. Any such excess premiums shall be paid by the covered employees. The Committee shall provide its final decision to the City Council as soon as is practicable.

Section 4: MEMBERSHIP: The Committee shall have thirteen (13) members. Two (2) members shall be appointed by the Whitefish Police Protective Association from its membership. Two (2) members shall be appointed by the Public Works Employees Union, Local No. 2943, from its membership. Two (2) members shall be appointed by the International Association of Firefighters Local 3995, from its membership. The non-union, non-exempt Public Works employees shall choose a member from among themselves. The City Clerk's staff shall select a non-union, non-exempt employee from among themselves. The Building Department employees shall select a non-union, non-exempt employee from among themselves. The Parks Department employees shall select a non-union, non-exempt employee from among themselves. The Court Clerk's staff shall select a non-union, non-exempt employee from among themselves. The City Department Heads shall select two (2) members from among themselves. The Committee shall also have three (3) ex-officio, non-voting members, which shall consist of two (2) City Council members, selected by the City Council, and the City Manager. All appointments shall be made in writing, directed to the City Clerk. The City Clerk shall make appropriate notation of a member's representation category on the official committee roster. Committee members shall receive no additional compensation above that already provided by the City. Contracted consultants and other City staff shall not serve as members, but may assist and participate in the facilitation of Committee business.

Section 5: TERMS: POSITIONS: Committee terms shall be two (2) years. There are hereby created positions numbered one (1) through thirteen (13) for voting members of the committee and positions numbered fourteen (14) through sixteen (16) for ex-officio, non-voting members. Seven (7) of the initial voting members, however, and one (1) of the initial ex-officio members, shall be appointed to one-year terms, so that the expiration of the terms of the Committee members will be staggered. Where one entity or group is allowed two appointments, that entity or group shall determine which of its appointees shall serve a one-year term and which shall serve a two-year term. The initial term for members serving pursuant to this Chapter shall begin with the effective date of this Chapter and terminate on the date specified below for each position.

<u>POSITION NUMBER</u>	<u>REPRESENTATION CATEGORY</u>	<u>INITIAL EXPIRATION DATE</u>
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**VOTING MEMBERS**

1	Police Association	February 29, 2004
2	Police Association	February 28, 2005
3	Public Works Union	February 29, 2004
4	Public Works Union	February 28, 2005
5	Firemen Union	February 29, 2004
6	Firemen Union	February 28, 2005
7	Public Works, non-union, non-exempt	February 29, 2004
8	City Clerk's Office, non-union, non-exempt	February 28, 2005
9	Building Dept., non-union, non-exempt	February 29, 2004
10	Parks Dept., non-union, non-exempt	February 28, 2005
11	Court Clerk's Office, non-union, non-exempt	February 29, 2004
12	Department Director	February 28, 2005
13	Department Director	February 29, 2004

**EX-OFFICIO MEMBERS**

14	Council Member	February 28, 2005
15	Council Member	February 29, 2004
16	City Manager	Indefinite

Thereafter members appointed to each position shall serve for two (2) year terms; the first of such terms beginning on July 1 of the year in which the initial term for the position expires.

Section 6: REMOVAL OF MEMBER: A member may be removed from the Committee by a three-fifths vote of the voting members of the Committee for cause upon written charges and after a public hearing. Willful disregard of this Chapter and the rules of procedures of the Committee, or absences from three (3) consecutive meetings, including regular and special meetings, or absences

from more than fifty percent (50%) of such meetings held during the calendar year shall constitute cause for removal. Circumstances of the absences shall be considered by the Committee prior to removal. Any person who knows in advance of his or her inability to attend a specific meeting shall notify the chairperson or secretary of the Committee at least twenty four (24) hours prior to any scheduled meeting.

Section 7: VACANCY: If any member position on the Committee becomes vacant, it shall be filled as soon as possible by the entity or group that originally appointed the position. Upon appointment to fill the vacancy, the appointing entity or group shall notify the City Clerk in writing of such appointment.

Section 8: ORGANIZATION: The Committee, at its first meeting of each fiscal year, shall elect a chairperson, vice-chairperson and secretary for the next twelve (12) month period. Upon the absence of the chairperson, the vice-chairperson shall serve as chairperson pro tem. If the secretary is absent from a specific meeting, the attending members shall elect a secretary pro tem for the meeting. If a vacancy occurs in the chairperson, vice-chairperson or secretary positions, the Committee shall elect a member to fill the vacancy at the next meeting. The secretary need not be a member of the Committee and shall keep an accurate record of all Committee proceedings.

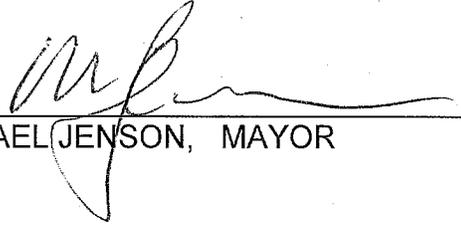
Section 9: MEETINGS; RULES AND REGULATIONS: A simple majority of the appointed Committee members shall constitute a quorum. Not less than a quorum of the Committee may transact any business before the Committee. The concurring vote of a simple majority of members present shall be necessary to decide any question or matter before the Committee. The Committee shall adopt rules of procedure for the conduct of meetings consistent with statutes, the City Charter, ordinances and resolutions. The Committee shall meet as needed. All meetings shall be open to the public.

Section 10: SUPERVISION OF STAFF: The Committee shall have no supervisory control and shall not direct City staff in the performance of their official duties.

Section 11: NO EXPENDITURE AUTHORIZED: Other than the duties of the Committee as outlined above, the Committee shall not have any additional authority to make any expenditures on behalf of the City or disburse any funds provided by the City or to obligate the City for any funds.

Section 12: EFFECTIVE DATE: This Ordinance shall take effect thirty (30) days after its adoption by the City Council of the City of Whitefish, Montana, and signing by the Mayor thereof.

PASSED AND ADOPTED BY THE CITY COUNCIL OF THE CITY OF  
WHITEFISH, MONTANA, THIS 19th DAY OF APRIL, 2010.



MICHAEL JENSON, MAYOR

ATTEST:

  
City Clerk

